

PROTECTION OF CHILDREN AS FOSTERED CITIZENS AT THE SPECIAL CHILD DEVELOPMENT INSTITUTION (LPKA) CLASS I TANJUNG GUSTA MEDAN



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ABSTRACT

Newborn children need the role of parents in meeting their needs so that they cannot be separated, especially from their mothers. The fulfillment of the rights of WBP congenital children in prisons is directly influenced by the deprivation of their mother's right to freedom. The purpose of this study is to find out the implementation of the implementation of the rules in an effort to fulfill the rights of children brought by their mothers at the Class I Special Child Development Institution (LPKA) Tanjung Gusta Medan, as well as the obstacles faced. The data used in this study is primary data, namely the results of interviews with WBP and LPP officers. Meanwhile, the secondary data is the result of literature studies and laws and regulations. The research method used in this study is an empirical research method with a data analysis method using a qualitative descriptive method. The results of the study show that the implementation of the innate legal protection of WBP at the Class I Tanjung Gusta Medan Special Children's Development Institution (LPKA) has been carried out in accordance with the applicable Standard Operating Procedures (SOP), but has not been maximized. The obstacles faced in fulfilling these rights include, infrastructure constraints, Human Resources (HR) constraints, and cooperation constraints.

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1. INTRODUCTION

The purpose of the implementation of the correctional system in Indonesia based on Article 2 Paragraph 1 of Law (UU) Number 22 of 2022 concerning Correctional Services, is to provide guarantees of protection for the rights of prisoners and children. In the concept of corrections, there are no other rights that can be revoked from a WBP other than his right to freedom (Ariani, 2021). However, the revocation of the right to freedom of the WBP is complex when it involves the WBP under certain conditions, must carry out the process of maternity, childbirth, breastfeeding and caring for their children in the Correctional Institution (Ariani, 2021).

A woman, of course, can commit a deliberate or unintentional violation of the law. If there is a violation of the law by citizens, it will be acted upon by Law Enforcement Officers in accordance with their duties and authorities (Saravistha D. B., 2021). The development of National Law must follow the development and needs of the community, not the other way around (Ariani, 2021). A newborn child needs the role of parents in meeting his needs so that he cannot be separated, especially from his mother. The fulfillment of the rights of WBP children in prisons is directly influenced by the deprivation of their mother's right to freedom.

In the International provisions contained in the United Nations Convention and Covenant (PPB), the handling of the problem of WBP congenital children, efforts have been made to standardize, because in general the problem of the needs of WBP congenital children differs from country to country. These standardization efforts have been conveyed in various official international forums (Ariani, 2021) (Saravistha D. e., *Optimizing the Implementation of Customary Sanctions in an Effort to Embody the Principle of Restorative Justice in Customary Villages (Case Study in Filtering Traditional Villages, Jembrana Regency)*, 2022), one of which resulted in the

Convention on the Rights of the Child (Saravistha D. B., *Initiating Short Films as a Media for Socialization of Child Protection*, 2021). Child protection is mandatory for all children, starting from perpetrators, witnesses and victims (Indonesia, 2002). Child protection ensures that the rights of all children are not violated. Child protection is sufficient for other rights, ensuring that children get everything they need during their growth and development. Law Number 12 of 1995 contains Correctional Services, which

states the benefits of punishment, namely efforts to make inmates and perpetrators of child crimes regret their actions, and return them to an orderly, rule-abiding, and dignified society with moral, social, and religious values to realize an orderly, peaceful, and prosperous citizen's life (Nuryanto, 2016).

Law enforcement facilities and organizations, and correctional institutions are components of a consolidated criminal justice structure (Amin, 2020). Despite the role of law enforcement, correctional institutions also have a strategic role when developing human resources who are responsible, dignified, independent and qualified (Supriyono, 2012). For perpetrators of the juvenile criminal justice structure, the child is defined as a child who violates the law, the child becomes a victim of a criminal act, the child becomes a witness to a criminal act, the child violates the law, the continuation is a child, who is under the age of 12 to 18 years of a child who believes that a criminal act has been committed, then the victim is a child of a further criminal act called a victim, and 18 years of age who witnessed a crime against a child under the age of 18. The next criminal act is referred to as a child testifying, namely a child under the age of 18 who as long as there is a criminal act in a criminal case, can submit evidence for the purposes of investigation, prosecution, trial, and criminal acts, hearing, observing and/or occurring (Mahir SikkiZ.A, n.d.).

The protection of children who violate the law does not only take place from the judicial process, but also through settlements outside the criminal justice procedure, which is also referred to as the use of distraction when settlement that involves the perpetrator, victim, perpetrator/family victim, and other stakeholders to work together to find an appropriate solution when prioritizing the original improvement, not retaliation, which is called the restorative justice approach. (Article 1 paragraph (6) of Law No. 11 of 2012 regulates the juvenile justice system). The Juvenile Justice Law emphasizes the duty of law enforcement officials to seek diversion early and prioritize restorative justice, especially for child convicts under the age of 7 when handling cases involving children. Out-of-court handling is intended to share a sense of justice with children who violate the rules and prioritize the best interests of the child.

The Convention on the Rights of the Child (KHA) lists 4 (four) principles of child protection that underlie all child protection efforts, namely:

the principle of non-discrimination, the principle of the best interests of the child, the principle of the right to life, survival and development, and the principle of child participation (Nurusshobah, 2019).

In consequence of this, the Government of Indonesia must make laws and regulations and other policies on the fulfillment of special rights and protections for children. The Indonesian government has adapted KHA into the legal system in Indonesia, namely in Law Number 35 of 2014 in conjunction with Law Number 23 of 2022 concerning child protection. Based on data on the correctional system as of February 8, 2021, in Indonesia there are 61 pregnant women, 39 breastfeeding mothers, and 62 congenital children in correctional facilities/LKPA/prisons (Ariani, 2021). The large number of children who follow their mothers in prison requires the seriousness of the government, in this case the Correctional Institution to apply the rules for the fulfillment of children's rights. Facts in the field show that there are cases in previous studies that show that the implementation of rules that guarantee the fulfillment of the rights of children born with WBP has not been maximized.

Furthermore, in the first study, it was stated that the legal protection of children's rights is difficult to achieve because the condition of women's social institutions is overcapacity (Harjono, 2023). Other research also states that the Yogyakarta Class II B Women's Prison cannot fully implement children's rights as stipulated in Law No. 23 of 2002 concerning Child Protection (Law No. 23 of 2002) in conjunction with Law No. 31 of 2014 concerning Amendments to Law No. 23 of 2002, lack of facilities and infrastructure such as the absence of a special room for mothers and children and the unavailability of pediatricians. and there is no control mechanism for the implementation of inmate coaching and child care (Rahmandrian, Retnaningrum, Hapsari, Hendrian, & Rani, 2021).

Special Child Development Institutions are where children serve during crimes. LPKA itself is a technical implementing unit and is responsible for repairs to the general manager. Since the birth of the Juvenile Criminal Justice System Law Number 11 of 2012 (SPPA) which took over the Juvenile Justice Law Number 3 of 1997, every Juvenile Correctional Institution is obliged to change its system to LPKA. Indeed, juvenile prison is no longer seen as relevant according to the legal needs and the evolution of the juvenile criminal justice system (Mirna Fitri Nur C.D, n.d.).

The purpose of this study is to find out the implementation of the applicable rules in the effort to fulfill the rights of children brought by their mothers at the Class I Tanjung Gusta Medan Special Child Development Institution (LPKA), and the obstacles faced in the effort to fulfill these rights.

2. METHODS

This research is an empirical juridical research, in other words, the approach used is sociological law. This research can also be called field research, which is to examine the applicable legal provisions and what happens in reality in society (Waluyo, 2002). The Empirical Juridical Approach emphasizes research that aims to acquire legal knowledge empirically by going directly into the object (Mandasari, 2023). The Empirical Juridical Approach is aimed at reality by looking at the relationship between the desired law (Das Sollen) and the reality that occurs (Das Sein) (Saravistha D. e., 2022).

The research entitled "Protection of Children as Assisted Citizens in the Special Children's Development Institution (Lpka) Class I Medan" is a standard empirical research, especially research on the application of legal standards. The type of research is field research, which contains research that is carried out systematically and methodically in revealing the data needed for on-site or field research (Kartini Kartono, 1986). The technique of collecting files from research is using literature studies, including collecting and analyzing data sources and field studies by holding interviews. In this journal, the study of this data is qualitative data analysis. Qualitative data analysis is a method that can be used in the processing of non-numerical data which is then known as qualitative data. According to Sugiyono, (2017), descriptive analysis is a statistic used in data analysis, namely explaining the data collected as it is without intending to draw conclusions or concepts that are generally on the topic.

3. DISCUSSION

The Convention on the Rights of the Child (KHA) lists 4 (four) principles of child protection that underlie all child protection efforts, namely: the principle of non-discrimination, the principle of the best interests of the child, the principle of the right to life, survival and development, and the principle of child participation (Nurusshobah, 2019) (Saravistha D. B., 2022).

In the Indonesian legal system, regulations related to KHA are listed in several regulations, including Law Number 4 of 1979 concerning Child Welfare. In this regulation, all articles are related to the welfare of children and how efforts are made to implement them (Saravistha D. B., 2021). The

rights of children in this regulation are contained in article 2 which basically states rights related to welfare, care, care and guidance; the right to service to develop capabilities; the right of maintenance and protection; and the right to environmental protection that hinders growth.

Furthermore, the rights of children are also expressly regulated in Law Number 39 of 1999 concerning Human Rights in article 52 paragraph 2 stating that "Human Rights (HAM) and for their interests the rights of children are recognized and protected by law even from the womb." The Indonesian government has also adapted the KHA into the legal system in Indonesia, namely in Law Number 35 of 2014 in conjunction with Law Number 23 of 2022 concerning child protection which reads "Every child has the right to be cared for by his or her own parents, unless there is a valid reason and/or legal rule showing that the separation is in the best interest of the child and is the final consideration". This means that there is alternative parenting with special considerations for the realization of the fulfillment of rights and protection of children.

The advice given by LPKA Class I Tanjung Gusta Medan should be aimed at changing their behavior, creating a sense of responsibility and being able to earn a legitimate living. Therefore, contained in the Decree of the Minister of Justice of the Republic of Indonesia No. M.02-PK 04.10 of 1990, the benefits of training are clearly stated as follows:

- a. Successfully restored self-esteem, confidence and optimism about the future
- b. Succeed in obtaining knowledge, lack independent living skills and succeed in national development.
- c. Succeed in becoming a law-abiding person, shown in behavior, discipline and attitude, and can mobilize a sense of loyalty to the social group.
- d. Successfully serving the spirit of the nation and state.

Performing their duties, officials have the same role as their positions, but the staff of exclusive educational institutions for child growth and development cannot be separated from the Tri Dharma of Corrections, including:

1. We correctional staff are civil servants, prisoners, and community defenders.
2. We community staff are expected to act wisely and play a fair role when carrying out service orders.
3. We correctional staff are identified as role models in achieving the goals of the penal system based on Pancasila.

Directing the community to respond to requests, duties and functions of community assistants are carried out by staff who have not yet created LPKA

run by correctional staff and correctional facilities. Community coaches have the following duties: (Weyasu, 2021).

1. Carry out community observation studies related to diversion, support, counseling and supervision of children during diversion and make agreements, report to the court if diversion is not carried out;
2. Conducting general research studies in the needs of investigation, prosecution, and adjudicating cases involving children, including inside or outside the court, namely LPKA;
3. Identify the agenda of child care in prisons and child guidance in LPKA and other correctional staff;
4. Providing support, counseling and inspection to children who are guided by court decisions, found guilty of committing crimes or prosecuted;
5. Ensure support, guidance and supervision for children with unity, parole, early leave and conditional leave.

The vision and mission of the Medan Class I Special Children's Development Institution is with the vision of "improving the unity of life and the protection of educated citizens as people of God Almighty and creating independent individuals". Meanwhile, the mission of the Tanjung Gusta Medan Class I Children's Special Development Institution is to carry out prisoner guards, training and protection in prison as part of law enforcement, deterrence, criminal settlement, promotion and protection of human rights.

Guidance for child inmates is carried out not only from correctional institutions but also outside the orphanage, working together with social work, namely a means of assistance. To handle the penitentiary system. Community counselors are correctional officers who provide guidance to inmates in prisons (article 1 point 11), have a function (article 34 (1):

- a. Support the functions of investigators, public prosecutors, and judges when juvenile delinquency occurs, inside and outside the court, by reporting the conclusions of community studies.
- b. Accepting, supervising an undernourished child who, based on a court decision, applies probation, criminal supervision, fines, is subject to state management and must undergo vocational training, or the child may be released from prison.

The training system and training objectives (objectives) of the above programs/training are regulated in the same way as the provisions of Law Number 12 of 1995, which states that the development of the reintegration system includes, among others, a system of protection, equal treatment and services, education, teaching, respect for human dignity and personal values, loss of freedom, and guarantee of rights in maintaining relationships with family members and certain people.

Correctional Law Number 12 of 1995 regulates the rights of prisoners, especially other freedoms: religion and belief, treatment of mental and physical diseases, health and good nutrition services. To receive medical services. Complaints, viewing materials, and participation in other media are prohibited, and the same is true of the laws and regulations that occur, receiving salaries or bonuses for work performed, visits from family members or individuals, obtaining amnesty, or having their sentences reduced the same as the laws and regulations still in force.

For the success of the correctional process, tools such as institutions are needed that are the same as the level of development of all aspects of prisoners' lives, and staff are trained, competent, and full of devotion (Rijuanda, 2022). In LPKA Class I Tanjung Gusta Medan, there are also supporting factors for child guidance officers in the educational process for child inmates, namely:

1. Cooperation from the local ministry of religion helps in the religious education process in LPKA
2. Skills education facilities that previously existed for adult inmates so that child inmates can follow the skills education process according to the talents and interests of child prisoners.
3. The willingness and motivation of inmates to carry out educational programs makes it easier for LPKA officers to carry out educational programs.

1.1 Implementation of the Fulfillment of the Rights of Child Prisoners in the Class I Anal Special Correctional Institution in Medan

Children's rights in Indonesia are regulated in Law Number 35 of 2014, which is an amendment to the Child Protection Law Number 23 of 2002 and Presidential Decree Number 36 of 1990 which is part of the Convention on the Rights of the Child. From the 1989 Convention on the Rights of the Child, children's rights are broadly divided into four groups of children's rights: the right to develop, the right to participate, and the right to survival, the right to protection (Wahyudi, 2011).

Furthermore, according to Wagianti Sutedjo explained that to be able to exercise these rights from time to time, through laws and regulations or other regulations, it must be in accordance with applicable principles, especially principle 7, which stipulates that children have the right to free compulsory education at least at the elementary level. Children need an education that strengthens general knowledge and enables them, in conditions that allow them to develop their abilities, individual opinions, and sense of morality and social responsibility to society every child, so that they will become

productive individuals and useful members of society (Wagiati Sutedjo, 2010). The needs of the child must be the basis for the guidance of the person in charge of the maintenance and development of the child concerned. Children should be given the opportunity to play freely and creatively for educational and social purposes and the authorities should work for the realization of this right.

Based on the decision of Article 64 paragraph 2 of the Child Protection Law (as well as amendments contained in the Child Protection Law No. 35 of 2014), the state claims to be trying to protect children who violate the law. The State is obliged to pursue these things, in particular the humane treatment of children and respect for the dignity and rights of children, by providing special support personnel for children from a very young age. Appropriate punitive action is in the best interests of the child, continues to monitor and document the child's development as required by law, ensures relationships with parents or organizations are maintained, protects the child from media disclosure, and avoids labeling.

A child who is sentenced to prison according to a court decision is taken to a special children's education institution to undergo punishment and training. According to the Children's Criminal Justice Law Number 11 of 2012, children who violate the law are children who are not yet 12 (twelve) years old but not yet 18 years old who are estimated to have violated the law (Iambue Tampubolon, 2017).

LPKA's mission is to provide support and guidance to its citizens according to the laws and regulations that are used until now. LPKA's task is to take care of children. Receiving children's rights in the form of coaching, supervision, assistance and the implementation of other rights adjusted by law (M. N. Djamil, 2013). The training, which is included in LPKA Class I Tanjung Gusta Medan, is classified into two parts, namely individual training. General training and conducted thoroughly. Orientation is carried out on the basis of a systematic program. Common forms of training are:

1. Formal education/learning activities, namely study groups (work) As part of the education of the nation's children and the success of the nine (9) year basic education plan, LPKA Class I Tanjung Gusta Medan collaborates with the North Sumatra Education Office.
2. Non-formal education/ Skill education The skill model provided at LPKA Class I Tanjung Gusta Medan is soldering and, scout training and carpentry training.

There is a guidance or Counseling for Caregivers at LPKA Class I Tanjung Gusta Medan. What is encouraging is that the character of inmates in order to increase their self-esteem, responsibility, equating themselves with life in a peaceful and prosperous society finally has the potential to become

qualified individuals and have high morals. LPKA Tanjung Gusta Medan is useful in placing prisoners/children of inmates back into the community as well as education and skills so that they can live a normal life and not violate the law, become active participants in efforts to build and live a happy life in the afterlife (Purnama Laoly, n.d.).

1.2 Obstacles faced by Correctional Institutions in fulfilling children's rights

The fulfillment of the rights of the children of the assisted citizens certainly has several obstacles. These obstacles include obstacles in the elements of facilities and infrastructure, elements of human resources and elements of regulation and administration. From the results of the interview with WBP who brought his child to the prison, namely:

1. Facilities and Infrastructure Aspects

There is no special room for WBP that brings children to take care of their children. LPKA Class I Tanjung Gusta Medan, which is located in the middle of a densely populated settlement, certainly makes it difficult to expand the building. In addition, the condition of LPPs who are over capacity with a total of 227 WBPs, this certainly makes it difficult for WBPs who bring their children to take care of their children. However, LPP in this case tries to fulfill this by combining the pregnant WBP room with the WBP who takes care of the child separately from other WBP.

2. Human Resources Aspect

Currently, at LPKA Class I Tanjung Gusta Medan, there are no officers with the status of Pediatricians. If the WBP child is sick, the LPP officer will coordinate with the general practitioner who is in the hospital. In addition to the absence of a pediatrician, medical supplies for toddlers are also not provided. This of course greatly hinders the prison officers from providing treatment if the WBP child is sick.

3. Cooperation Aspects

In this case, LPKA Class I Tanjung Gusta Medan has collaborated with the Foundation and the Medana City Health Center. However, the LPP has not collaborated with the Health Insurance Administration Agency (BPJS), this is an obstacle when there is a WBP congenital child who is sick and must be taken to the hospital.

4. CONCLUSION

The implementation of the legal protection of WBP's innate children's rights in LPKA Class I Tanjung Gusta Medan when providing counseling

services to correctional individuals is to provide advice in accordance with number 12 of 1995 containing correctional services. Correctional Institutions are a series of law enforcement agencies that have the goal of making community members correct and not repeat their past mistakes so that they can be accepted back by the community. As for his past mistakes, he was able to be accepted back by the community. has been running in accordance with the applicable Standard Operating Procedures (SOP), but it has not been maximized. This is because there are obstacles that are factors that hinder the fulfillment of the child's rights. The obstacles faced in fulfilling these rights include, infrastructure constraints, human resource constraints, and cooperation constraints.

5. LIMITATION

It is recommended that LPKA Class I Tanjung Gusta Medan collaborate with BPJS, to make it easier to make BPJS for WBP congenital children, so that the processing of fulfilling rights in the health sector becomes easier.

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