

Post-release Juvenile Offender at the Special Development Institute for Children in the Perspective of Sociology of Law

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Abstract: *The aim of this research is to provide an understanding of the psychological condition of a child after being released from a foster child based on a legal sociology perspective at the Special Child Development Institute (LPKA). The research uses socio-juridical methods, including descriptive research with a non-doctrinaire approach, which views law as an empirical social phenomenon. The types and sources of data in this research use primary data and secondary data with data collection techniques in the form of documentation and literature study which is then analyzed descriptively qualitatively. The results of this research show that a bad view of former foster children in the social environment will result in children experiencing mental disorders, depression, low self-esteem, anxiety about hurting themselves and even suicide. The efforts made by the community and government are to accept and accommodate children who have problems with the law, so that there is a common perception between parents and the government in fulfilling children's rights, and avoiding bad views that have an impact on the survival and future of children.*

Keywords: Juvenile Offender, LKPA, Sociology of Law

A. Introduction

One of the goals of the criminal justice system is realized by correctional institutions which are a component of the criminal justice system specifically the rehabilitation and resocialization of offenders. The goal of the law is to improve society by not only punishing offenders but also encouraging them to behave better. In Indonesia, this is reflected in the way prisons view their inmates as lost souls with many opportunities to repent. A correctional institution is a place used as the last step in the criminal justice process to house criminals who have received a verdict from a judge to receive coaching and guidance to transform back into a decent person.¹

The role of correctional institutions as representatives of the State, is very important in terms of respecting the human rights of prisoners through coaching, because even though various things have been tried in coaching while serving a sentence, the psychological impact of imprisonment is still evident in prisoners and requires serious handling. Prisoners as part of Indonesian society need to receive serious attention from various levels of society so that the

¹ Rahma Eka Fitriani, *Pembinaan Terhadap Narapidana Anak di Lembaga Pembinaan Khusus Anak (LPKA)*, Jurnal Justitiable, Volume 6 Nomor 1, 2023, Hlm. 109-110



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prisoners can enjoy a peaceful social life.²

Based on Law number 22 of 2022, the Child Special Development Institution or shortened to LPKA is an institution or place where fostered children serve their sentence. The purpose of coaching is to improve the quality of devotion to God Almighty, intellectual, attitudes and behavior, professional, physical and spiritual health of Prisoners and Correctional Students. Guaranteeing the protection of the rights of prisoners and children. Improve the quality of personality and independence of Prisoners in order to realize mistakes, improve themselves, and not repeat criminal acts. Providing skills or technical expertise that are useful for WBP, so that they can have useful provisions after leaving LPKA. All aspects of providing guidance to children include receiving foster children, placing them, providing guidance, and releasing them. In addition, based on the risk and needs evaluation conducted by the correctional assessor, children are placed in groups based on age, gender, or other factors.³

Whereas children serving sentences in the Special Development Institute for Children (LPKA) from the time of serving the sentence until the child is released, their right to freedom is limited by the norms that apply in the LPKA, which results in them being away from their family and community environment. Prisoners who undergo coaching will be fostered in accordance with the purpose of coaching, namely activities to improve the quality of devotion to God Almighty, intellectual, attitudes and behavior, professional, physical and spiritual health of Prisoners and Correctional Students who are programmed in daily activities at LPKA.⁴ These programs are to be a provision for foster children after release.

Prison is a new place for prisoners, especially for children who should remain under the supervision of their parents. Children continue to depend on parents materially and emotionally until anxiety issues arise as a result of this dependence. Children of prisoners may experience this anxiety, as indicated by the child's feelings of embarrassment for the family, feelings of burden, and feelings about his or her family relationship with the father's or mother's family. However, there are also children of prisoners who lack affection from their parents, poor economic circumstances of the family, and disharmonious family circumstances.⁵

The stigma on convicted children makes their long future seem lost. Until now, every year thousands of children in the country become detainees and convicts, so they have to languish in Children's Special Development Institutions, Correctional Institutions, and Women's Correctional Institutions. Their future is at stake, even though they are treated differently from adult prisoners.⁶ Everyone, especially those who have been convicted, wants to have a harmonious life and relate well with society. As members of society, ex-prisoners need recognition of their existence in society. Therefore, a good adaptation process in the community will change the negative public perception of ex-prisoners.⁷

People must make mental adjustments, or self-adjustments, to survive in these conditions. Therefore, people must be able to adapt to their environment. Social support is

² Dewi Suyatni. Muhammad Mufti M. Djafar, *Pemenuhan Hak-Hak Terhadap Pembinaan Narapidana di Kota Ternate*, De Jure: Jurnal Ilmiah Ilmu Hukum, Volume 1 Nomor 1, 2019, Hlm. 94.

³ Undang-Undang Nomor 22 Tahun 2022 tentang Pemasyarakatan

⁴ Peraturan Pemerintah (PP) Nomor 31 Tahun 1999 tentang Pembinaan Dan Pembimbingan Warga Binaan Pemasyarakatan

⁵ Muhammad Hilal Alhamdi Bachman, Padmono Wibowo" Dampak Stigmatisasi Terhadap Narapidana Anak di Lingkungan Masyarakat "Jurnal Ilmu Sosial, Politik Dan Humaniora E-ISSN : 2598-6236. Hal. 61

⁶ <https://www.kompas.id/baca/humaniora/2023/08/27/masa-depan-anak-terpidana-terjerat-stigma>.

⁷ Edison Hutapea"Membangun Konsep Diri Mantan Narapidana Dalam Masyarakat" Jurnal Oratio directa Vol. 5 No.1, Juli 2023 E-ISSN 2615-07435, Hal 869

essential during the adaptation process. If fellow prisoners or their families provide support to individuals who have just been released from a criminal sentence, they will feel comfortable and be able to survive in the environment. Conversely, if the individual does not feel supported by their fellow prisoners or family, they will feel uncomfortable and will not be able to survive.⁸

Children are the next generation and the main capital of human survival, family and nation, so their rights must be protected. The irony is that it turns out that children cannot protect their rights alone. Many parties who are too powerful to influence their lives must be opposed by themselves. Because the state and society have an interest in the quality of their citizens, they must endeavor to protect children's rights.⁹

B. Methodology

The research method used in this research is socio-juridical by assessing the application of law in the midst of society. This research uses primary data sources in the form of questionnaire data related to coaching for children and relevant secondary data in the form of books, journals, legal documents and others. Data collection techniques are carried out by means of documentation and literature studies to obtain a material that can provide conclusions to this research. Furthermore, the data that has been obtained is then analyzed using a qualitative descriptive analysis technique to describe comprehensively and then draw conclusions to answer and provide solutions to the gaps that occur in the community.

C. Results and Discussion

The issue of legal protection is one side of the approach to protect the former public at large in Indonesia. In order for the protection of rights to be carried out in an organized, orderly and responsible manner, legal regulations are needed that are in line with the development of Indonesian society which is fully imbued with Pancasila and the 1945 Constitution of the Republic of Indonesia.¹⁰

Anticipation of these crimes includes the effective functioning of legal instruments (criminal) through law enforcement. Through legal instruments, unlawful behavior is addressed preventively and repressively. Bringing before a court session and then imposing punishment for members of the community who are proven to have committed a criminal act, is a repressive action. The imposition of punishment in the form of special suffering as punishment for perpetrators who violate the norms regulated in criminal law in accordance with the acts committed can be in the form of punishment with deprivation of liberty (imprisonment) and even deprivation of life in the form of the death penalty.¹¹

One of the most anticipated processes for prisoners during their sentence is freedom. Prisoners will be returned to the community, and they will have the opportunity to reunite with their families and interact with society naturally. Outside the prison walls, prisoners can breathe fresh air again and express themselves.¹² However, it is not as imagined or even familiar in Indonesian society that a person with the status of an ex-prisoner is stigmatized in

⁸ Meki Zainudin Subarrkah "pengaruh dukungan sosial keluarga terhadap psychological adjustment pada warga binaan asimilasi di balai pemasyarakatan kelas II pati" *Journal of Correctional Issues* 2021, Vol.4 (2), 132-145 Politeknik Ilmu Pemasyarakatan 22 Desember 2021, hal 135

⁹ Abianto Prakoso, "Hukum Perlindungan Anak" Laksbang Pressindo, Yogyakarta hal 47

¹⁰ Gandhung Wahyu Febrianto. Widodo Tresno Novianto, *Perlindungan Hak-Hak Anak dalam Proses Pembinaan di Lembaga Pembinaan Khusus Anak Kelas I Kutuarjo*, Jurnal Recidive, Volume 7 Nomor 3, 2018, Hlm. 262.

¹¹ P.A.F. Lamintang, *Dasar-Dasar Hukum Pidana Indonesia*, Bandung: PT. Citra Aditya Bakti, 2013.

¹² Saputra Ilham Akbar" *Anomie Sosial Pada Remaja (Studi Tentang Perilaku Adaptif Dan Tekanan Sosial Pada Mantan Narapidana Remaja Di Kota Payakumbuh)* Jom Fisip Vol. 5: Edisi I Januari – Juni 2018. Hal. 4

society and underestimated, especially when they become a recidivist. Forms of social punishment received by ex-convicts also often include discrimination such as being ostracized in the community, limited access to basic needs such as education, health, employment and others. The difficulty for prisoners to regain the trust of the community and the stereotypes attached to former prisoners make access and opportunities in obtaining the same treatment as other communities very minimal for them.

People who commit criminal acts or serve sentences in correctional institutions tend not to be accepted by society when they finish serving their sentences. This is due to the community's belief that the person will continue to commit crimes even after serving his or her sentence, which makes him or her avoided and ostracized by the community. In society, this kind of social stigma should be avoided or eliminated.¹³

Here are some of the problems faced by victims of bullying, namely:

- 1) fear and anxiety,
- 2) loss of self-confidence,
- 3) isolation,
- 4) difficulty forming relationships,
- 5) mental disorders, problems
- 6) physical health and,
- 7) decreased academic performance¹⁴

Therefore, Jasra said, the spirit of the Juvenile Justice System Law in seeing children who commit crimes, in law, is not as legal subjects, but there must be accompanying causes.¹⁵

Based on the description above, it can be concluded that the bad view given to foster children after leaving the Special Development Institution is a negative characteristic. This bad view will also not be felt by the child himself, but will remain with his family. The bullying experienced by the child has a significant psychological impact and can have an impact on his or her changed behavior, which in turn can lead to new actions or crimes.

Individual characteristics include various variables, namely motives, values, attitudes, and personality, where one interacts with the other, then further interacts with the environment, because environmental factors also have a cause for behavior.¹⁶

By getting emotional support from his environment, he will feel better and calmer when facing problems because he gets help in solving the problems he is facing. This treatment indirectly makes family members facing problems feel cared for and encourages them to rise from their difficulties. If he gets support from the people around him and his loved ones, he will not feel lonely while living his days in prison, as prisoners do. Conversely, prisoners will have nowhere to complain about problems and difficulties if they do not get social support from the people around them and their loved ones when they are at home.¹⁷

¹³ Muhammad Hilal Alhamdi Bachman, Padmono Wibowo. *Op cit*, hal. 65

¹⁴ <https://hellosehat.com/parenting/remaja/kesehatan-mental-remaja/dampak-bullying>

¹⁵ [Sejumlah Kasus Bullying Sudah Warnai Catatan Masalah Anak di Awal 2020, Begini Kata Komisioner KPAI | Komisi Perlindungan Anak Indonesia \(KPAI\)](#)

¹⁶ Umar Sulaiman, "Perilaku Menyimpang Remaja dalam Perspektif Sosiologi", Alauddin University Press. Hal. 51

¹⁷ Maki Zaenudin Subarkah, *Op cit*, hal 136,

They are social human beings, and ex-prisoners always need other people. After physical needs and security, the need to socialize is the primary human need. His discomfort can be alleviated by the warmth of his environment. Ex-prisoners have needs like everyone else. Work is very important for ex-prisoners to fulfill their needs, find a life partner, continue their offspring, and other needs.¹⁸

Children are unique individuals with their own characteristics. Parents, teachers and other adults are very important in shaping children's behavior because their development and ability to do things are greatly influenced by their environment.¹⁹ A positive self-concept can also make a person have goals or expectations that he wants to realize in his life, but according to their capacity. Those who have a positive self-concept will strive and be optimistic to realize their goals. Those with a negative self-concept will view the future pessimistically.²⁰

From the aspect of Indonesian positive law, a child is defined as someone who is not yet an adult or (person under age), a person who is underage or underage (inferiority). According to R.A Kosnan "children are young people at a young age in their soul and journey of life because they are easily influenced by the surrounding circumstances. Therefore children need to be taken seriously. However, as the most vulnerable and weak social beings, ironically children are often placed in the most disadvantaged position, do not have the right to a voice, and even they are often victims of violence and violations of their rights. Studying about children and their protection does not stop throughout the history of life, because children are the next generation of the nation and the successor of development, namely the generation that is prepared as the future of a country. Article 28 B Paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that: "Every child has the right to survival, growth, and development and the right to protection from violence and discrimination."

As a person who is very unique and has characteristics, children can act based on their own feelings, thoughts, and will. In addition to their own will, children's actions or behavior can also be influenced by the surrounding environment. A child can carry out actions or actions that are out of control, so that they can commit criminal acts against the law. Many factors influence a child to act criminally, such as a child who comes from a family with a lower socio-economic class, parents who have poor parenting patterns, children with difficult temperaments, and stressors in everyday life. In addition to these factors, delinquency arises because in terms of personal physical development and mental development. His emotions are not yet stable, irritable and sensitive to criticism so that it affects him to act which is sometimes not common and outside the rules that apply in society. Children must be given special attention from an early age until adolescence and adulthood, because children are still unstable in thinking and acting, so that to be able to understand children, of course, they can be considered starting from their life with the family environment, school environment, and children's play environment. Thus, extra supervision is needed, considering that a nation will progress and develop where the next generation is more potential, of course, by paying attention in terms of health, protection of the child so that his development can be understood both physically and psychologically.

¹⁸ Wanda Fristian, Vina Salvina Darvina. S, Sulismadi "Upaya Penyesuaian Diri Mantan Narapidana Dalam Menanggapi Stigma Negatif Di Kecamatan Klakah, Lumajang": *Jurnal Hukum dan Kemanusiaan*, Vol. 14, No. 1, Juni 2020. Hal 109

¹⁹ Muhammad Fachri Said, "Perlindungan Hukum Terhadap Anak Dalam Perspektif Hak Asasi Manusia" *Jurnal Cendekia Hukum*: Vol. 4, No 1, September 2018, Hal. 144

²⁰ Muhammad Hilal Alhamdi Bachman, Padmono Wibowo, *Op cit*, hal. 65

Behavior change is not entirely determined by the success of the authorized institution, but is also determined by other more dominant factors, namely environmental factors. The behavior of Children Against the Law (ABH) during the coaching period undergoes various changes. These changes become very significant conditions for children, the services provided by the LPKA are running as desired. The form of change in the behavior of students in LPKA has experienced positive changes, although not completely, but coaching and supervision have been routinely carried out during the coaching period.

According to Law No. 35 of 2014 concerning Child Protection, article 2 stipulates that child protection is carried out based on Pancasila and 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, such as:

- 1) Non-discrimination;
- 2) The best interests of the child;
- 3) The right to life, survival, and development;
- 4) Respect for the child's opinion; and
- 5) Law No. 35 of 2014 on Child Protection²¹

Labelling theory and self-fulfilling prophecy, as well as this X case, usually result in the desire to do something and even realize it according to the labels, labels, and stigmas given to them. These stigmas must be removed from within us, as they can cause deviant behavior in children who are negatively labeled as they will try to withdraw from society and conform to a deviant identity such as the negative label or stigma given to them.²²

Concern for child protection is also the responsibility of the State, government and local government as stated in article 21 of Law Number 35 of 2014 paragraphs 1 to 6:

- (1) The State, Government, and Local Governments are obliged and responsible for respecting the fulfillment of Children's Rights without discriminating against ethnicity, religion, race, class, gender, ethnicity, culture and language, legal status, birth order, and physical and/or mental conditions.
- (2) To ensure the fulfillment of children's rights as referred to in paragraph (1), the state is obliged to fulfill, protect, and respect children's rights.
- (3) To ensure the fulfillment of children's rights as referred to in paragraph (1), the Government is obliged and responsible for formulating and implementing policies in the field of child protection.
- (4) To ensure the fulfillment of children's rights and to implement the policies referred to in paragraph (3), local governments are obliged and responsible for implementing and supporting national policies in the implementation of child protection in the regions.
- (5) The policy as referred to in paragraph (4) can be realized through regional efforts to develop child-friendly districts/cities.
- (6) Further provisions regarding the policy of child-friendly districts/cities as referred to in

²¹ Abianto Prakoso, *Op cit*, hal. 49

²² Muhammad Hilal Alhamdi Bachman, Padmono Wibowo, *Op cit*, hal. 66

paragraph (5) are regulated in a Presidential Regulation.²³

Children Against the Law (ABH) are part of society so that in terms of handling them there needs to be special attention. Basically, children are entitled to special protection and must obtain opportunities guaranteed by law in order to make them able to develop themselves. For children who experience criminal penalties, coaching is required as an educational effort both formal and non-formal which is organized in a planned manner in order to assist self-development.

Child development is a comprehensive process. Therefore, children need strong physical, psychological and mental readiness to realize all coaching activities. In this case, a Child Special Development Institution (LPKA) is formed as a place for children to carry out their sentence. LPKA is obliged to carry out education, skills training, coaching, and other fulfillment of children in accordance with statutory provisions.

The Special Development Institute for Children is part of the Directorate General of Corrections, and its staff provide guidance and support to children who have been involved in the justice system. The head of this institution is responsible for overseeing its operations. LPKA Banda Aceh is responsible for carrying out the tasks and functions set out in Minister of Law and Human Rights Regulation 18/2015 on the Organization and Work Procedures of the Institute for Special Development Children. This is based on the legal basis for the implementation of the main tasks and functions of the LPKA. LPKA is responsible for developing correctional students. It can be seen that LPKA is responsible for assisting the development of children. This shows that there are special differences between crimes committed by children and adults. The special treatment referred to in the form of handling is not in the form of punishment or criminal liability, but rather coaching. Coaching seeks to improve behavior in daily life, both in terms of religion, social and family life.

This is certainly different from adult offenders whose legal actions are in the form of criminal responsibility. The criminal responsibility referred to here is the inner relationship between the perpetrator of the crime and the act he committed, so that he can be punished legally. In another sense, criminal responsibility is the imposition of reproach (punishment) to the maker for his actions that violate prohibitions or create prohibited conditions.

Based on Law No. 39/1999 on Human Rights, human rights are a collection of rights inherent in human nature and existence. The state is responsible for ensuring that all citizens' rights and freedoms are fully respected and fulfilled. garanti protection of the constitutional rights of every citizen without discrimination. But the truth is, ex-convicts are often discriminated against when getting a job, and there should be no criminal record in the police. It is very important for an ex-prisoner to have legal protection to obtain employment and a decent income.²⁴

D. Conclusion

Correctional coaching aims to prevent a person from making mistakes again after serving a sentence. In addition, it also aims to improve the spiritual and intellectual quality of prisoners and correctional students, provide protection to them, improve their personality and independence, and provide them with the skills they need to live freely. Prisoners fear that

²³ Undang-Undang Nomor 35 Tahun 2014, Pasal 21. Hal 9

²⁴ Rudi Cahyono dan Anisa Dwi Lestari, *perlindungan hukum terhadap hak mantan narapidana*, Jurnal Hukum Politik dan Agama, Vol. 3 No. 01, Maret 2023. Hal. 5

they will be viewed negatively by society after they leave the Special Development Institution for Children. The social perspective given to someone who is considered to have a bad personality, and is tarnished due to deviant and despicable social behavior. In the case of juvenile offenders, they are often viewed by the community in their neighborhood, as well as the place where they will continue their education. Stigma and discrimination can lead to bullying, the impact of bullying results in the child being mentally disturbed, depression, low self-esteem, anxiety, desire to harm themselves, and suicide.

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