



The Authority of the Special Guidance for Children in Gorontalo City, Gorontalo Province in Implementing Guidance for Children in Conflict with the Law

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Abstract

In the Juvenile Criminal Justice System, the Child Special Guidance Institution (LPKA) is a forum for children to carry out their criminal period. As the next generation, children have an important position so they must get protection and guarantees for their rights. In this article, the author limits the discussion of the role of LPKA in providing guidance to children in conflict with the law. The sociological juridical research method is used with the aim of obtaining empirical legal knowledge obtained directly from the object. The implementation of special guidance for children in conflict with the law is guided by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The role of LPKA is to provide guidance and supervision to children in carrying out their criminal sanctions. The results of research and discussion obtained at the Gorontalo City Children's Special Guidance Institute, children receive guidance and education. Coaching activities are carried out to shape the personality in the form of developing the potential of children according to the needs and conditions of children, while educational/school activities cooperate with the relevant education office. Children in conflict with the law can become good individuals and can face the future brilliantly.

Keywords: Development, Children's Institutions, Children in conflict with the law.

A. Introduction

Law No. 35 of 2014 concerning Child Protection, provides provisions for the definition of a child as someone who is not yet 18 (eighteen) years old, including children who are still in the womb. In Indonesia, there are various laws that provide various purposes regarding the definition of children, but because there has been a law that specifically regulates legal protection for children, the principle of *Lex Specialist Derogate Lex Generalis*, becomes a guideline for the regulation of children, namely as follows: which has been mentioned in the Child Protection Act no. 35 of 2014.

Discussing about children will always be an interesting topic because children are human beings who are physically unable to take responsibility for themselves. Children are the next generation of the nation as well as the next generation in a family. The role of children is very important in the development and progress of a nation. In the hands of children, the future of a nation will be at stake, the nation's generation as a determinant of the progress or decline of a country.

As a form of state guarantee for child protection, the 1945 Constitution of the Republic of Indonesia mandates in accordance with Article 28 B paragraph 2 that:

Every child has the right to survive, grow and develop and be free from violence and discrimination.

In the social sphere of society, children are a weak group that has the potential to become an object and not even a few are the subject of criminal acts. Child crime cases, especially children facing the law in 2020, were dominated by physical violence as many as 30 cases, immoral cases as many as 28 cases, children as perpetrators of traffic accidents and theft followed with 13 and 12 cases respectively. This is different from the number of cases of children as victims of criminal acts. Based on data from the Ministry of Women's Empowerment and Child Protection, it was noted that sexual violence against children and women reached the highest number in 2020, which was around 7,191 cases. Meanwhile, in 2020, the number of cases of violence against children and women reached 11,637 cases. In 2021, data compiled from the online information system for the protection of women and children until June 3, 2021, reached 1,902 cases of sexual violence against women and children. Meanwhile, cases of sexual violence against women and children reached 3,122 cases.

Various problems related to children, become very concerned for the community and the government. The family, which should be the first institution that must provide protection and protection, often ignores its role properly. In addition, the environment is also an important trigger in the development of children during childhood in the search for identity.

In principle, child protection based on the Law of the Republic of Indonesia No. 35 of 2014 concerning Amendments to Law Number. 23 of 2002 concerning Child Protection which is carried out based on Pancasila and the 1945 Constitution of the Republic of Indonesia. The principle of protection is regulated based on the best interest of the child (the best interest of the Child), where this principle stipulates that all actions involving children are carried out by the government, society, legislative and judicial bodies, the interests of children must be the main consideration.

The variety of criminal acts that occur in Indonesia, but what is of concern to us is the crime committed by children. In our view, the general public, it is unlikely that a child will become a perpetrator of a crime, this cannot be denied, an increase in the number of crimes committed by children caused by child delinquency. The causes of children committing crimes are motivated by factors that exist within the individual child and factors outside the individual child, environmental factors and socio-economic factors as well as weak parental supervision of children during their development.

Children in conflict with the law in Law no. 11 of 2012 concerning the Juvenile Criminal Justice System, special protection is given, the protection of children in conflict with the law is the main key as an effort to ensure the future of children, in the juvenile criminal justice system, it is specifically handled by competent parties in their fields, namely investigators Special for Children, Special Public Prosecutor for Children, Special Judge for Children, and Child Special Guidance Institutions. And during the juvenile justice process in conflict with the law, the principles of child protection must be observed and continue to uphold the dignity of the child without neglecting the implementation of justice and not degrading the child's humanity.

In the event that a child in conflict with the law has been determined by a judge's decision that has permanent legal force, then the child will be ordered to serve his criminal period at the Child Special Guidance Institute (LPKA). LPKA has a very important role in efforts to develop child prisoners, making children into good human beings, who can improve their behavior so that children can meet their future and be useful for their families, communities and countries. Children who are in LPKA will receive guidance and education. In accordance with the mandate of the Law on the Juvenile Criminal Justice System, children have the right to receive guidance, guidance, supervision, assistance, education and training, as well as other rights in accordance with the provisions of the legislation. However, the implementation is still far from what is expected by the government and society. Children who are in conflict with the law have not yet fully fulfilled their rights to the fullest by the Child Special Guidance Institute.

The problems that will be studied in this paper will be limited to the role of LPKA in providing guidance to children in conflict with the law. However, it is devoted to the Children's Special Guidance Institute in Gorontalo Province as the object of the research location in this writing.

B. Method

The method used in this paper is a sociological juridical research method that emphasizes research that aims to obtain legal knowledge empirically by going directly to the object.

This type of sociological juridical research is also called field research, namely examining the applicable legal provisions and what is happening among the community. In other words, this research is carried out on the actual situation or real reality that occurs in the community with the intention of knowing and finding the facts and data needed, then the collected data is identified based on the problems that become the main study towards the end of problem solving. Sources of data used are primary data sources obtained directly from the research site. While secondary data sources are obtained from books, journals as a complement to primary data. Data collection techniques are carried out by means of direct interviews with competent parties and literature studies to support data related to the problem. The materials that have been collected are then analyzed by thinking on general matters which are then drawn to more specific matters in order to obtain conclusions.

Legal protection is to provide protection for human rights that have been harmed by others and this protection is given to the community so that they can enjoy all the rights granted by law or in other words legal protection is various legal remedies that must be provided by law enforcement officials to provide legal protection. a sense of security, both physically and mentally from disturbances and threats from any party.

The definition of protection in legal science is a form of service that must be carried out by law enforcement officers or security forces to provide a sense of security, both physically and mentally, to victims and sanctions from threats, disturbances, terror, and violence from any party given at the investigation stage. prosecution, and on examination in court. The rule of law is not only for short-term

interests, but must be based on long-term interests. Community empowerment is a concept of economic development that encapsulates social values.

Legal protection is the protection of the dignity and worth, as well as the recognition of human rights owned by legal subjects based on legal provisions from arbitrariness.

The existence of law in society is very important, in a life where the law is built with the spirit of constitutionalism, namely guaranteeing the freedom and rights of citizens, obeying the law and the constitution is essentially obeying the imperatives contained as meaningful substances in the imperatives. Citizens' human rights must be respected and enforced by state power developers wherever and whenever, or also when citizens use their freedom to participate or to know the course of the public policy-making process.

Legal protection is all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and/or victims, legal protection of crime victims as part of community protection, can be realized in various forms, such as through the provision of restitution, compensation, medical services, and legal assistance. Legal protection is an obligation for the state itself, therefore the state is obliged to provide legal protection to its citizens. After we know the importance of legal protection, then we also need to know about the meaning of legal protection itself.

Legal protection is a protection given to legal subjects in the form of tools that are both preventive and repressive, both oral and written. In other words, it can be said that legal protection is a separate picture of the function of the law itself, which has the concept that the law provides justice, order, certainty, benefit and peace.

The above understanding invites several experts to express their opinions regarding the meaning of legal protection including:

- a. According to Satjipto Raharjo, legal protection is to provide protection for human rights that have been harmed by others and this protection is given to the community so that they can enjoy all the rights granted by law.
- b. According to Philipus M. Hadjon, legal protection is the protection of the dignity and worth, as well as the recognition of human rights owned by legal subjects based on legal provisions from arbitrariness. Legal protection is a collection of rules or rules that will protect one thing from another.
- c. According to CST Kansil Legal Protection are various legal efforts that must be provided by law enforcement officers to provide a sense of security, both mentally and physically from disturbances and various threats from any party.
- d. According to Muktie, A. Fadjar Legal protection is the narrowing of the meaning of protection, in this case only protection by law. The protection provided by law is also related to the rights and obligations, in this case that is owned by humans as legal subjects in their interactions with fellow humans and their environment. As legal subjects, humans have the right and obligation to take legal action.

With regard to children in legal conflict, prior to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the placement of children was placed in correctional institutions and their placement was by building adults. After the enactment of this law, the hope of the state is to create a judicial body that can truly guarantee the protection of the best interests of children in conflict with the law. It is

well known that this law has changed the paradigm for law enforcement officers related to the handling of children, such as investigators, public prosecutors, judges, advocates and special coaching institutions. Children in conflict with the law must be avoided from the formal judicial process and also avoided stigmatization of children so that they can restore normal social conditions.

In fact, so far, children who are in conflict with the law are always considered as criminals who commit crimes/criminal acts, which in society's view often have to be given severe punishments, without paying attention to their mental, mental and psychological conditions, and without paying attention to the rights of the child. , so that it often results in children who are in conflict with the law instead of getting better, but becoming a prolonged trauma and even causing children to do worse deeds than before. Children who are in conflict with the law must be directed and given special guidance to them. So it is hoped that children who are in conflict with the law can form good characters with noble and noble character, can show polite behavior and can show good behavior towards themselves, their families and the surrounding community. The rights attached to children in conflict with the law must also be considered and guaranteed as a form of legal protection by officers in the Special Child Development Institute, including the right to freedom and other human rights related to the welfare of children.

In relation to the discussion that will be carried out by the author, about the role of the Special Child Development Institute in providing guidance to children in conflict with the law which is devoted to the Special Child Development Institute of Gorontalo Province as the object of research location in this writing. Referring to the results of studies that have been carried out by previous researchers regarding the role of the Child Special Guidance Institution at the beginning of the inauguration of the Child Special Guidance Institute, many obstacles were found in carrying out their duties and functions in providing guidance to children who are in conflict with the law. Especially at the Gorontalo City Children's Special Guidance Institute, the situation and conditions that exist in the area as well as the limitations that exist in the government and the community who do not understand the provisions of the Juvenile Justice System Act. And there are still many people who think that children who commit crimes The criminal must be given a prison sentence instead of being placed in a coaching institution as specified in the current regulation. Some Special Child Development Institutions are also still facing the same obstacles, for example constrained by the quality and quantity of officers who are competent and concerned about children as well as the limited facilities and infrastructure so that it is still far from being said that the place used is child-friendly. Budget constraints, adequate facilities and facilities have resulted in the development program for children in conflict with the law not being able to run optimally based on the provisions of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System.

C. Result and Discussion

1. Guidance for Children in Conflict with the Law by the Special Child Development Institute

The Child Special Guidance Institute (LPKA) is a place or institution that has a role in providing guidance to child prisoners. Children who are placed in LPKA are

children from 12 years old to 18 (eighteen) years old. Coaching at LPKA. Children, the role of LPKA in fostering prisoners by treating prisoners to be good. What is carried out is the personal development of the inmates, raising a sense of self-esteem and developing a sense of responsibility to adjust to a peaceful and stable life in society, so that the potential to become human beings with high morals and personality is carried out.

LPKA is a place or institution for children to serve their criminal period. As a technical implementing unit, LPKA's position is under the auspices of the Director General of Corrections. The legal basis for the formation of the LPKA is Law no. 12 of 1995 concerning Corrections, Law no. 11 of 2012 concerning the Juvenile Criminal Justice System, Law no. 39 of 2008 concerning the Ministry of State, Presidential Regulation no. 44 of 2015 concerning the Ministry of Law and Human Rights, Regulation of the Minister of Law and Human Rights No. 19 of 2013 concerning Organization and Work Procedure of the Ministry of Law and Human Rights of the Republic of Indonesia and Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 18 of 2015 concerning the Organization and Work Procedure of the Child Special Guidance Institution. LPKA has the task of carrying out the development of community students.

What is meant by coaching in this case is an effort to make those being fostered live physically and spiritually healthy, so that they can adjust and improve their skills, knowledge and intelligence in the living environment.

The legal rules used in the development of children are the same as the provisions that apply to the development of adults, namely the provisions in Law no. 12 of 1995 concerning Corrections.

Correctional students in principle, treatment and coaching carried out is an integrated, continuous and continuous process from the pre-adjudication, adjudication and post-adjudication stages. At each stage the child must be accompanied by a community counselor who has the task of providing assistance, mentoring and supervising and determining a coaching program that is in accordance with the child's condition, based on the results of community research. The guidance carried out at LPKA is carried out until the child reaches the age limit of 18 (eighteen) years. Every child is obliged to follow and carry out the guidance that has been prepared and determined for them.

In the implementation of guidance with the correctional system, it has the aim of returning the inmates of the correctional facility (specifically including children) as good citizens, which aims to protect the community against the possibility of repeating criminal acts, and is an application and an inseparable part of the values contained. in Pancasila. Therefore, the correctional system is more emphasized on the aspect of development which has preventive, curative, rehabilitative and educative characteristics.

The correctional system must focus on efforts to care, foster, educate and guide inmates with the aim of restoring the basic unity of the relationship between the individual inmates and the community.

In connection with a child committing a crime or what is called a child in conflict with the law, that child can only be sentenced or subject to action based on the provisions of Law no. 11 of 2012 concerning the Juvenile Criminal Justice System.

Children who are not yet 14 (fourteen) years old can only be subject to action. The lightness of the act, the child's personal condition, or the circumstances at the time the act was committed or occurred later can be used as the basis for judges' considerations not to impose a sentence or impose an action taking into account the aspects of justice and humanity.

The main punishments for children consist of:

- a. Criminal warning;
- b. Criminal conditions with the following conditions: 1) coaching outside the institution, 2) community service, 3) supervision
- c. Work training
- d. Coaching in institutions and
- e. Jail.

Additional penalties consist of:

- a. Deprivation of profits derived from criminal acts;
- b. Fulfillment of customary obligations.

A warning penalty is a minor crime that does not result in restrictions on children's freedom. Criminal conditions can be imposed by a judge in the case of a maximum imprisonment of 2 years. In the court's decision regarding the criminal condition, general conditions and special conditions are determined. The general condition is that the child will not commit a crime again while serving a criminal period with conditions. The special requirement is to do or not to do certain things as stipulated in the judge's decision while still taking into account the freedom of the child. The criminal period with special conditions is longer than the criminal period with general conditions. The term of the criminal term is a maximum of 3 years. While serving a sentence with conditions. The public prosecutor conducts supervision and community counselors provide guidance so that the child fulfills the requirements that have been set. As long as the child is serving a sentence with conditions, the child must continue to study for 9 years.

Meanwhile, actions that can be imposed on children include:

- a. Return to parent/guardian;
- b. Surrender to someone;
- c. Treatment in a mental hospital;
- d. Treatment at LPKS;
- e. Obligation to attend formal education and/or training held by the government or private bodies;
- f. Revocation of driving license; and or/
- g. Repairs due to criminal acts.

For children who are detained and placed in LPAS. Children have the right to receive services, care, education and training, guidance and assistance, as well as other rights in accordance with the provisions of laws and regulations. LPAS is obliged to provide education, skills training and fulfillment of other rights in accordance with the provisions of laws and regulations.

Article 81 of the Juvenile Criminal Justice System Law stipulates that a child is sentenced to imprisonment in LPKA if the child's circumstances and actions will endanger the community. Imprisonment can be imposed on children for a maximum of of the maximum imprisonment for adults. Guidance at LPKA is carried out until the

child is 18 years old. Children who have undergone of the length of coaching at LPKA and have good behavior have the right to be used only as a last resort. If the crime committed by a child is a crime punishable by death or life imprisonment, the sentence imposed is a maximum imprisonment of 10 years.

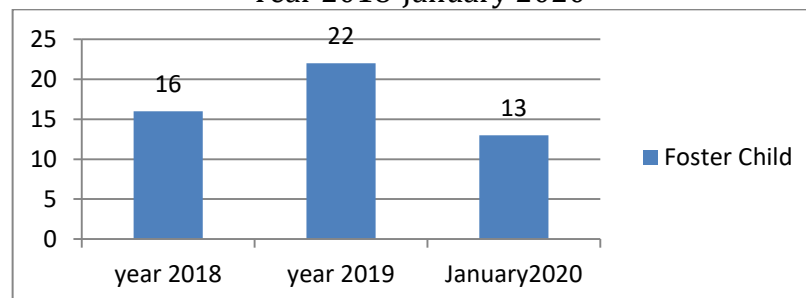
The Child Special Guidance Institution (LPKA) is an institution or place where children serve their criminal period. This is confirmed in Article 1 number 20 of Law no. 11 of 2012 concerning the Juvenile Criminal Justice System which states that the Special Child Development Institution is a place for education and guidance for criminal children, state children, and civilian children.

LPKA is an institution or place where children serve their criminal period. LPKA is obliged to provide education, skills training, coaching and other fulfillment of children in accordance with the provisions of the legislation. This is considering that children who have been sentenced to a crime have the right to receive guidance, guidance, supervision, assistance, education and training as well as other rights in accordance with statutory provisions. So that it can be understood that LPKA is a place for children to undergo their criminal period which still pays attention to children's rights such as getting guidance and coaching for the child concerned.

In Indonesia, each province has a Child Special Guidance Institution, in Gorontalo Province in particular, the Operational Office of the Child Special Guidance Institution (LPKA) was officially opened in 2017 but can only be operationalized in 2018. Child Friendly and local government programs that make Gorontalo a Child Friendly City. The purpose of LPKA in the future is so that children in conflict with the law will no longer serve their sentences in prison or correctional institutions.

The data relating to the number of fostered children in LPKA Gorontalo are as follows:

Table 1
Number of foster children in LPKA Gorontalo
Year 2018-January 2020



Primary data sources are obtained from LPKA Gorontalo City Based on the table above, it shows that in 2018 at the Gorontalo Special Institute for Child Development there were 18 children under guidance, then in 2019 there were 22 fostered children and in January 2020 there were 13 children. This shows that children who commit criminal acts and are given fluctuating coaching sanctions increase this can be seen in 2018 there were 16 children, then increased in 2019 to 22 children who were fostered in LPKA. And in January 2020 there were 13 children.

Based on the results of an interview with Deddy Abdul Amd, Kep., SH., Head of the Sub-section of the Guidance of the Gorontalo Child Special Guidance Institute,

stated that: the role of LPKA in providing guidance to children undergoing criminal sanctions is very important, because children are given protection and guidance in order to develop and can face a better future, through the guidance carried out by LPKA officers, children are expected to acquire their identity to become independent, responsible and useful human beings for themselves, their families, communities and the country.

The Head of the Sub-section of the Guidance of the Gorontalo Child Special Guidance Institute, Deddy Abdul, Amd.Kep., SH said that in LPKA there are 2 sub-sections Sub-Section of Education and Community Guidance and Care Sub-Section. The education and community guidance sub-section is tasked with guiding personality in the form of developing children's potential through education including religious education, scouting and others, which can be obtained through formal and non-formal education. Religious personality development is carried out with the aim of increasing and strengthening children's faith, especially in giving understanding to children that the behavior and actions they have done are mistakes that must be corrected, and can realize the consequences of their actions, so that the fostered children do not repeat them again when they have undergone his sentence in LPKA. In the field of religious education, LPKA cooperates with the Ministry of Religion of Gorontalo City to bring religious teachers to LPKA Gorontalo. The fostering of intellectual abilities of fostered children through formal education for children is carried out in collaboration with relevant agencies, children who are in LPKA are included in learning activities at schools in Gorontalo City. Meanwhile, non-formal education is involving children in the form of educational packages (A, B and C), and involving children in other learning activity studios. The development of legal awareness is carried out by providing legal counseling aimed at achieving a high level of legal awareness so that as citizens and members of the community they can understand their rights and obligations in the context of participating in upholding law and justice, protecting the dignity of fellow human beings, order, peace, security and have behavior as citizens who obey the law. In addition, students are also educated to be able to integrate themselves into the social life of the community so that later they have positive values when they return to the community and can be well received in their environment.

In the sub-section of self-reliance development, LPKA conducts training activities in collaboration with the Job Training Center (BLK), the Food Service and in collaboration with other relevant agencies. This independence training is intended so that the fostered students gain skills to support independent efforts that can be carried out by children. The skills held are adjusted to the interests and talents of each of the fostered students.

In terms of health care, there are 2 medical officers at LPKA Gorontalo, but the problem is that there is no Special Clinic at LPKA, so they still use other rooms for health care. In addition, in the field of health, LPKA cooperates with the nearest Puskesmas to bring in officers if needed.

In addition, several infrastructures to support the implementation of child development based on Law no. 11 of 2012 concerning the Juvenile Criminal Justice System is also not sufficient. The Child Special Guidance Institution (LPKA), which is an institution or place where children undergo a coaching period (criminal), is only

found in the city of Gorontalo. The Temporary Child Placement Institution (LPAS) in the form of a temporary place for children while undergoing the judicial process does not yet exist. Social Welfare Organizing Institutions (LPKS) are social service institutions or places that carry out welfare services for children, only staying in several orphanages in Gorontalo. Social institutions are almost always used as reference institutions as places of child care in conflict with the law.

D. Conclusion

So far, the form of protection provided by officers at LPKA, can be said to be implemented well, because LPKA has followed procedures and is guided by the provisions of the applicable law, so that in its implementation there are no significant obstacles that can hinder the implementation of coaching for children. fostered at LPKA Gorontalo. However, it would be better if things that could hinder the process of implementing guidance for children in conflict with the law could be improved, equipped with supporting facilities and infrastructure, increasing the capacity of competent human resources in their fields who are truly professional so that coaching can be carried out optimally and can form a good and useful child's personality for the nation, state and religion.

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