

Implementation of Street Children Handling In the Context of the Legal Country

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Abstract

Every child is an asset of the nation, without children the future will never be realized. The quality of the future of a nation is very much determined by the quality of the nation's treatment and protection of their children.

Children are in a very disadvantageous position, it can even be said that they are in a danger line that will interfere with their development as children. The government must seriously declare the National Movement for Child Protection, with the aim of protecting, overcoming, eradicating abandoned children or street children and the rehabilitation of children who are victims of violence, exploitation, neglect and so on. By preparing children for the future means giving them the best educational knowledge. The education that is given to children today, the fruit will only be felt in ten, twenty or thirty years. In raising and nurturing children, it must be realized that they will live in a different era from ours.

The method in this research uses qualitative analysis. The type of research used is normative juridical research, which prioritizes the rule of law combined with examining social facts related to the application of norms in positive law.

The result of the research is that protection is carried out through prevention activities against the possibility of further degradation of human dignity, creation of a sense of security and protection against abuse and mistreatment. In programs for handling and protecting the rights of street children, it should be stated in the formulation of a national law development program in the future and there is a need for more comprehensive coordination of programs / implementation of legal products in the field of children, as well as in the implementation of tasks in the field.

Keywords: *Implementation, Street Children, State, Law*

INTRODUCTION

The complete portrait of the child's reality on the face of the world map is not as beautiful as the verbal rhetoric or cultural and political jargon that is labeled with children. All countries agree that, children are the hope for the future of a nation. The wise words of Benjamin Fine "children are a generation who will oneday become our national leader"¹.

Children are the totality of life and humanity. Every child is inherent from birth, even from the time the fetus is in the mother's womb, basic rights that cannot be ignored, but have children's rights become a world reality? There are many forms of exploitation, violence, discrimination, and harm to children's rights, both perceived and real and hidden. In fact, children are still exploited economically as child laborers, street / neglected children or immature / prematurely mature children, even though the legal instruments are relatively available, they have not been able to consistently enforce children's rights. It is ironic that the laws and regulations regarding child protection only become slogans and lip decorations that are still meaningless. Until now, the problem of children has not attracted many parties to his attention. Data on the situation of children can be confirmed from reports submitted by world bodies which show how children are still victims of adults, victims of oppressive social structures. Since 1989 the world community has had an international legal instrument, namely the Convention on the Rights of the Child (United Nation Convention of the Right of the Child). In the perspective of international law, it has the power to bind participating countries and signatory countries. The Convention on the Rights of the Child, hereinafter abbreviated as KHA, describes children's rights in detail, comprehensively and progressively, because the CRC positions the rights of the child as itself and the rights of the child as a human segment whose struggles together with adults must be supported.

Legally, Indonesia is a member state of United Nations and the international community, since August 1990 it has ratified the Convention on the Rights of the Child through Presidential Decree No. 36 Year of 1990. The Convention on the Rights of the Child can be manifested in the formation of national laws and the

¹Benyamin fine "1.000.000 Delinquens", *The New American Library*, page.256

obligation to make a national report on efforts and developments in the enforcement of the Convention on the Rights of the Child in Indonesia. Even though it is bound by the Convention on the Rights of the Child, in a practical sense the child's rights are still involved in child labor, such as the case of child labor in North Sumatra or the case of children who are commercially prostituted. Child abuse is evident from the rampant cases of child rape, psychological and mental violence and heavy burdens, exploitation and suppression of children in advertising media, television broadcasts, and others, policies and laws that are not anticipatory to children.

In law enforcement practices, both the Police, Prosecutors and Judges concerning children tend to sentence children, whereas according to the principles of criminal law and the Beijing Rules, punishment for children is the last option (*The Last Resort / Ultimum Remedium*), this shows how law enforcement officials tend to repressive against children. The implementation of children's rights is made to enforce structures, systems and structural constructions that are pro to children's rights. This effort is in line with legal reform efforts that continue to erode exploitive and destructive laws against children. The enforcement of children's rights needs to be carried out continuously and seriously considering that the problem of children is not yet a major issue in development. Upholding children's rights requires commitment with adults who have the power, capital, and other supporting resources. Children during their infancy cannot be left completely alone, children are not adults in miniature, so that they are not legally able to fight on their own to enforce their rights which are beautifully written in formal documents or legal provisions.

The International Agreement on the Convention on the Rights of the Child that has not received attention, even though it has been ratified (1990), has not yet been realized to uphold and recognize children's rights in the constitutional state of Indonesia, and its implementation of programs to address neglected children. Article 34 of the 1945 Constitution states that abandoned children will be cared for by the state. Reading Article 34 of the 1945 Constitution and its explanation, really soothes the hearts of the Indonesian people, especially neglected children who will be cared for by the state.

The implementation of the UUD'45 Article 34 embodiment depends on the active role of the community family and state administrators, in connection with that, all socio-political forces, community organizations and other social institutions need to arrange programs according to their respective functions and abilities, in implementing the lines. great state bow. The explanation of the 1945 Constitution only states that "the Indonesian state is based on law (*rechtstaat*), not based on mere power (*machstaat*)".

The concept of the constitutional state of the Republic of Indonesia is based on Pancasila which contains the principle of acknowledging the existence of God's Law, Natural Law, and Ethical Law². The constitution must contain contents which oblige state administrators and others to maintain noble human character and uphold the noble ideals of the people. A large and quality population is the capital for the implementation of development in all fields, but if a large population is not attempted, the quality of development cannot be enjoyed by the people, controlling and simultaneously utilizing a large population is required to regulate the development of population quality and quality of the family which implementation is carried out in an ongoing manner. comprehensive and integrated by the government sector. Policies for population development and building a prosperous family are directed towards controlling the quantity of the population, the quality of the family and mobilizing population mobility as a human resource in order to become an effective national development force in the context of realizing the quality of life of the community which is constantly improving in a more integrated manner.

The scope of discussion of the results of previous research "Legal Protection of Vulnerable Communities" (1999), especially neglected children in the Municipalities of the Level II Region of Surabaya in relation to Population development and Prosperous Family Development, provides examples of vulnerable communities, such as the poor, communities in remote areas, with critical links, neglected children and people with disabilities. Children as the next generation must be prepared from an early age, physically, mentally and in education, fostering and protecting them so that they are protected from possibilities that will endanger them and the interests of the nation in the future and are able to maintain national unity and unity.

Based on the aforementioned matters, it can be raised or can be formulated in the issue of "*Handling Implementation of Street Children in the Context of a Rule of Law*" which is described in the sub-theme

²Abu Daud Busroh,SH., Asas- asas HTN,Ghalia Indonesia, Jakarta 1983, page 120

covering the following: what efforts have been taken by the Surabaya City Government in handling street children in the context of a legal state?

RESEARCH METHOD

The research method leads to several things ranging from the type of research, the problem approach, legal materials, legal material collection procedures and processing from the analysis of legal materials as follows :

1. Research Type

As a consequence of choosing the topic of problems that will be studied in research whose object is currently developing legal problems, the type of research used is normative juridical research, which prioritizes the rule of law combined with examining social facts related to the application of rules or regulations. norms in positive law.

2. Approach the problem

The approach used in this paper is juridically normative, which means conducting discussions with reference to the prevailing statute approach which has something to do with handling street children in the context of a rule of law.

3. Legal material sources;

The technique of collecting legal materials used by researchers in this preparation uses two ways, namely:

1) Primary legal materials are conducting research and studying laws and regulations relating to street / neglected children who are cared for by the state in the context of a rule of law.

2) Secondary legal material is a technique of collecting legal materials intended for explanation of primary legal materials including literature /journal books, papers and internet references, jurisprudence, opinions of scholars, magazines, newspapers, data or other literature related to issues will be described.

a. Procedures for collecting legal materials and processing legal materials.

Legal materials contain logical descriptions that have been obtained from both primary and secondary legal materials after being studied and then selected according to the material under study and then a classifier is carried out.

b. Processing and analysis of legal materials

In analyzing the data, the analytical descriptive method is used towards the qualification method, namely analyzing existing data and describing it according to the existing facts by using deductive logic, the meaning is that the material being analyzed is general in nature into things that are specific. This analysis is carried out in order to provide answers to the problems raised.

RESULT AND DISCUSSION

1. Implementation of handling street children in the context of a rule of law

The grammatical understanding of children is that they are the second descendant of the marriage of the father and mother³. In terms of Civil Law (BW) by using the term *minderjarig* for children who are not yet mature and the translation is often referred to as immature, underage or not yet old enough, while the giving of children according to Prinst Darwan is based on existing laws or scholars are as following:

a. UU No.23 of 2002 concerning Child Protection;

Child is someone who has not reached the age of 18 (eighteen) years, including children who are still in the womb;

b. UU No. 39 of 1999 on Human Rights.

Child is any human being who is under 18 (eighteen) years of age and has not been married, including children who are still in the womb, if it is for his / her interests.

Meanwhile, the understanding of children in sociology is the fruit of sacred marriage, where children are gifts and gifts from God that must be protected and given full love because the child cannot live independently and is still very dependent on parents, namely father and mother. This requires guidance and

³Compilation Team of Dictionary of Language Development and Development, Big Indonesian Dictionary Edition 2 Ed.9,(Jakarta , Balai Pustaka ,1997) page.35

protection in order to ensure full physical, mental and social growth and development. Meanwhile, a child who does not get happiness (Unhappy Child) or often called "the emotionally maladjusted child". that the seeds of delinquency in the child initially arise due to the wrong attitude / treatment of parents, the environment and society. Education and attention from parents who are authoritarian and over protection of the child. Such attitudes are handicaps for the personal development of the child concerned. Attitudes, over protection of parents towards children according to Levey⁴ :

- Excessive parental relationship
- Extend treatment like a child
- Prevent the development of self-confidence in the child
- Under or over supervision of parents, either too indulging or instilling too harsh discipline so that children are too obedient to their parents.

Commission on Human Rights' monitoring shows that the condition of children in Indonesia is very worrying, at least nearly 6.5 million children aged 5-17 years of age live as laborers in factories, plantations, agriculture, garbage dumps, street singers, street singers in the world of prostitution. The number of children who are exploited economically and sexually commercially will continue to increase, if it is related to the figure of 8 million children who are currently threatened with dropping out of school⁵.

Routine Activities Theory by Marcus Felson and Robert K. Cohen which states that crime will occur if in one place and time the following elements are present;

1. A motivated offender.
2. A suitable target (an easy target).
3. The absence of Capable guardian (absence of a qualified guard).

Of course, the forms of the elements of crime above will greatly affect the security and public order. Because these criminal acts are the closest to society, and if allowed to cause fear, feelings of insecurity in society and of course will greatly affect the productivity of society in carrying out their daily lives. In big cities, criminal acts committed by street children are not a strange thing anymore, such as in East Java, especially Surabaya, as a barometer of the occurrence of crimes which is the area where research is used as a normative supporter. In this study the authors made a chart of criminal acts committed by street children both as victims and victims and perpetrators in the East Java region⁶:

Table 1
Data on Children Facing the Law (ABH)
East Java Regional Police and ranks 2018

No	Month	Kind of Crimes						Total
		Sex	Pervert	Persecution	Porno-gra phy	Children kidnapping	Assault	
1	January	11	2	4	-	-	4	21
2	February	9	-	2	-	-	-	11
3	March	17	-	9	-	2	1	29
4	April	22	1	10	-	-	-	33
5	May	11	3	10	-	-	-	24
6	June	20	8	7	1	-	-	26
7	July	8	2	7	-	3	1	21
8	August	7	1	7	-	1	2	18
9	September	21	5	12	-	-	1	39
10	October	7	1	5	-	-	-	13
11	November	8	3	4	-	-	2	17
12	December	-	-	-	-	-	-	-
	Total	141	26	77	1	6	11	

⁴Report on the results of the "Juvenile delinquency" project team, Faculty of Law and Public Knowledge, Padjadjaran University, December 1967

⁵Jawa Pos, Tuesday Wage, September 5th 2000, the title is Their Blurred Portraits

⁶Data Sources for the Head of Teaching 1 Youth, Children and Women of the East Java Regional Headquarter in 2018

No	Month	Kind of Crimes						Total
		Theft of Weighting	MotorcycleTheft	Gangster	Kidnapping	Rape	Child Abuse	
1	January	2	-	3	-	-	3	8
2	February	-	-	-	-	-	-	-
3	March	5	2	-	-	1	-	8
4	April	-	-	-	-	1	-	1
5	May	3	-	-	-	-	1	4
6	June	2	1	1	1	-	-	5
7	July	1	-	-	-	-	-	1
8	August	1	-	1	1	-	-	3
9	September	3	-	-	-	-	-	3
10	October	2	1	-	-	-	-	3
11	November	1	-	-	-	-	-	1
12	December	-	-	-	-	-	-	-
	Total	20	4	5	2	2	4	

The rampant crime of street children in conflict with the law

Criminal acts committed by street children are always increasing every year, both in terms of quality and modus operandi, sometimes acts of violations committed by street children are felt to disturb all parties, especially parents. The phenomenon of increasing violent behavior by street children seems to be -Is not directly proportional to the age of the perpetrator. According to the data on cases of complaints that were included in the protection of children and adolescents of the East Java Regional Police in 2017, the highest rank was copulation with 279 per year, second place was sexual immorality with a total of 95 per year, while the last or lowest number was copulation per year. one year. Whereas in 2018, the highest ranking was copulation with 141 (one hundred and forty one) but decreased by around 138 compared to 2017, sexual abuse and abuse decreased by around 69 and 14. Committing criminal acts of sexual intercourse and child molestation, especially children - Street children. The background problems of street children are not caused by just one factor, for example the economy alone, but many factors that contribute to and at the same time support children on the streets due to family finances or pressure from poverty, disharmony in parents' households and special problems regarding the relationship between children and parents. however, environmental influences also determine the decision to live on the streets.

Street children temporarily disconnect from their parents

The first characteristic is characterized by street children having parents. However, the situation in the family is deemed unpleasant for the child to live in, so the child temporarily leaves the family, but still has interactions, although it is very rare.

In a family that is still complete, both parents are still living and living at home, the problem of children leaving the family is triggered by several problems, for example the way parents socialize / educate with "iron handlers". All wishes and wishes of parents must be obeyed, parents tend to organize and position children in a place that does not know anything. The desire and the little will have no place at all to determine what he wants. As a result, if you don't want to obey your parents' wishes, then violence will speak out.

The family situation that is not harmonious makes the children feel uncomfortable at home. At first the children often go out and prefer to be outside the house and over time the children rarely come home. For children who are not comfortable living at home, their parents usually run away from the house. For children who still have initial goals to their families, but those who do not exist or are there but do not guarantee, usually go aimlessly.

Street children can also come from parents' divorce as the cause. After parents divorce, children are faced with the choice of whether to like or not to follow their father or mother. If parents are divorced, generally it is not a strong motivation for children to go to the streets. But if the parent followed remarries and lives with a stepparent, and the child is not compatible with the connecting parent, it will be a strong impetus for the child to leave the house and go out on the street and then gather with friends on the streets, there are also those who live with friends rent a house, live on the street or at a halfway house. Children who come from backgrounds with these characteristics generally still have relationships with parents who are considered to be meritorious, for example mothers who give birth.

Street children who still live with their parents

Street children who come from such backgrounds are usually driven by economic factors. Due to the parental economy, it generally encourages children to find alternatives to earn their own income. Motivation arises from the children themselves to help the family economy, wanting to meet their own needs and being forced by their parents to earn income. Most of the children who have these characteristics are still in school and have better educational aspirations than others. Activities on the streets are usually carried out before leaving and after school. Activities of children usually deliver newspapers to subscribers in the morning while selling newspapers to non-subscribers by going around to places that are considered potential buyers. The activity of selling circulating newspapers was carried out until school was approaching.

Street children from this background do not rule out the possibility that over time they will spend more and more time on the streets. The pleasure of being outside the home by holding money and managing it freely will affect school activities and even drop out of school with the assumption that on the road you can earn money easily and live freely while in a school full of rules. In terms of parental affection and protection, street children who have these characteristics still feel it. If something happens, usually parents still defend, at home parents usually still pay attention to their needs in terms of food.

Living without parents and relatives

Street children who fall into this kind of category; usually no longer in a relationship with parents. Street children like this usually no longer have parents and relatives, both physically and non-physically. The physical existence of parents means that the parents are still alive but there is no longer any relationship with their children, the parents no longer pay attention to the fate of their children and no longer want to know anymore. Children from this kind of background usually follow other people, of course, street children with these characteristics usually go to school very little. In terms of protection, these street children are usually very prone to violence that threatens to come from friends, other older people, thugs, security guards and even the police.

From the point of view of children's rights, mapping and surveying street children is important to obtain an adequate picture as a basis for stepping up, intervening so that violations can be avoided / suppressed a little. Handling the problem of street children in Surabaya cannot be separated from the surrounding community. One of the factors that causes children to come down and spend most of their time on the streets is the environmental factor in which the child is located. The handling of street children can not only be focused on the children themselves, but also on other factors that affect the children, including their own parents or siblings. Interventions for street children also depend on the approach to parents and the support they provide.

Handling and Services for street children

Street children are one of the social problems that arise in cities, especially big cities, including Surabaya. There have been many studies which found that the life of street children is a life that is attached to violence. Although some of them still have parents, parents generally do not feel that their children are prone to violence when on the streets. There are even some parents who encourage their children to take to the streets to earn money. A life that is prone to risks and seems to be separated from the legal umbrella requires a helping hand. This helping hand, in anticipation of the least possible, reduces the treatment that street children do not properly receive, especially the treatment of violence that always threatens their lives.

This guidance is focused on street children so that they can return to their awareness of their mistakes and mistakes, and be able to return to socializing in society as before. So it can be concluded that this treatment contains two main objectives, namely as an effort to prevent and raise awareness of street child offenders so as not to do worse things so that the street child offender in the future does not violate the law, both from violations. - violations that may be of greater harm to society and government.

Street children have heterogeneous characteristics, because policies developed for their treatment cannot be carried out en masse. Besides the form of treatment, street children must be based on the needs of the child and the background of the child's problem in the handling. Street children can be seen from the point of view only as a matter of disrupting order but must be from many aspects. For example, we can also see the background of street children, not only from the children themselves, but also from their families and

surroundings. Therefore, the government in formulating development and policies, especially street children, must understand comprehensively the problems of street children. The results of this research can at least be used as a consideration for future policies and programs. The policies and programs that have been realized need to be evaluated and made improvements.

CONCLUSION

From the discussion above, the conclusion is drawn that the existence of street children cannot be separated from the condition of the family, there have been many studies that show that one of the factors that encourage street children is various problems that exist in the family, for example the disharmony of the families of the father and mother who have separated, whether divorced or separate beds, or also family economic factors, the way parents educate children with violence and so on. As a handling of street children, it cannot be seen from the point of view only as a problem that disturbs public order, but must be seen from many aspects, for example seeing the background that is not from the child himself, but also from his family and environment.

Protection is carried out through preventive activities against the possibility of further degradation of human dignity, creation of a sense of security and protection against abuse and mistreatment. In the program for handling and protecting the rights of street children, it should be stated in the preparation of a national law development program in the future and there is a need for a more comprehensive coordination program / implementation of legal products in the field of children, as well as in the implementation of tasks in the field.

It is necessary to promote the Convention on the Rights of the Child and other regulations relating to children through; counseling through video audio, visuals and other media, counseling through Family Welfare Guidance officers and a child protection forum which is a government or independent institution that has sufficient authority to protect children with problems, both from a legal perspective and from a welfare point of view for children with problems. law and from the perspective of social welfare and is responsible for the development and protection of children.

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