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# THE ROLE OF SOCIAL REHABILITATION FOR CHILDREN IN CONFLICT WITH THE LAW IN RESOCIALIZING THE COMMUNITY

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## Abstract

To help children recover from social isolation or prepare them to rejoin society, it is crucial to increase their opportunities for social interaction. Children with legal problems must take responsibility for their actions, but they are entitled to reparation, including social reparation. The purpose of this piece is to examine the idea of social rehabilitation for juvenile offenders. Interviews, written records, and in-person observations are all part of the qualitative data collection procedures used in this investigation. Based on the findings of this study, we know that the Juvenile Criminal Justice System (SPPA) employs diversion and restorative justice procedures to help formerly incarcerated youth readjust to their communities and alter their behavior accordingly. Additionally, the government-appointed institution, the Social Welfare Administration Agency, is responsible for providing adequate social rehabilitation as a supplement to legal diversion and justice restoration measures. For juvenile offenders over the age of 12, the Ministry of Law and Human Rights' Social Welfare Organizing Institution (LPKS) will determine what kind of social rehabilitation measures are appropriate and implement them under the watchful eye of social workers.

**Keywords:** Children in Conflict with the Law, Social Rehabilitation, Social Welfare Organizing Institutions (LPKS).

## A. INTRODUCTION

Adolescence is a transitional period between infancy and childhood and the move to adulthood. Adolescence is the time between childhood and adulthood that occurs between the ages of 12 and 21 (Adiansah et al, 2019). In adolescence, children will experience very rapid changes starting from the physical, mental, emotional and social ranges to deviant behavior that can cause social disasters that are very worrying, besides that they will cause anxiety and harm the surrounding community (Fardian & Santoso, 2020).

In this day and age it is easier for us to see a decline in morale that is increasingly engulfing some teenagers as stated in social media, mass media, more and more reports, very easy web access so that the news will spread quickly and it will be easier for us to know the number of children who commit deviant acts (Huripah, 2015; Abrams et al., 2021). From this there is a need for serious attention and guidance from the government, society and parents to guide adolescents in a more positive direction and not make the wrong choice of association and juvenile delinquency (Sinaga & Lubis, 2010).

Juvenile delinquency is a behavior that ignores the norms that exist in society (Malihah, 2014). Meanwhile, Unayah & Sabarisman (2015) and Farmer et al (2021) reveal in more detail that juvenile delinquency is a series of actions by children between the ages of 10 and 18 years that not only ignore the prevailing social norms, but also religious and legal norms so that the consequences disturb people's peace. others and self-destruct. The forms of juvenile delinquency are gambling, beatings resulting in minor or serious injuries, brawls, drinking, consuming illegal drugs or narcotics, stealing, selling or distributing illegal drugs, and free sex which can involve children dealing with each other. with the law (ABH) (Sumara, 2017).

Children in Conflict with the Law (ABH) refers to situations of law violations committed by children; in some circumstances, children are not only perpetrators but also victims (Ananda, 2018). In response, the Indonesian government proceeded in accordance with the applicable law, which differs from the legal regulations applicable to adults (over 18 years). For instance, the maximum sentence for a child is one-half that of an adult, and neither life imprisonment nor the death penalty is applied. This choice was made to ensure the

child's entire, harmonic, and balanced physical, mental, and emotional development. Moreover, according to Article 59 of the Law of the Republic of Indonesia Number 39 of 1999 on Human Rights, "every kid has the right to legal protection from various forms of physical and mental violence, neglect, poor treatment, drug abuse, and sexual harassment, including rape or murder". So, in cases of Children in Conflict with the Law (ABH), they must be given legal support and social assistance from before to after the legal cases they have experienced have been completed (Sitompul, 2015).

Social Rehabilitation of Children in Conflict with the Law (ABH) is a program created by the Government in an effort to implement the development of children's social functioning within the family and community (Zenal, 2019). Activities in the ABH Social Rehabilitation Program itself include social assistance to ABH by providing technical support and accessibility support, which later ABH will be given legal proceedings or services in solving problems in accordance with the rights of children and distinguished from adults (Mala, 2020).

Protection of children recognizes no distinction and favoritism has clients or it can be called discrimination because children who have criminal acts must receive protection. This is because they are Children with Legal Entities (ABH) who are so tough and vulnerable to all acts of violence and crime, even though they should still be under the protection of their parents and family. Like the KPAI (Indonesian Child Protection Commission) which is needed in society (Utami, 2018).

The Indonesian Child Safety Commission (KPAI) is a state entity responsible for overseeing the protection of children in Indonesia. Based on Law Number 23 of 2002 regarding Child Protection, passed on October 20, 2002, this agency was founded. In addition, President Megawati Soekarnoputri issued Decree No. 77 of 2003 establishing the Indonesian Child Protection Committee. According to the law, the KPAI is responsible for disseminating all legal provisions concerning child protection, collecting data and information, receiving public complaints, conducting research, and monitoring, analyzing, and supervising the execution of child protection (Arliman, 2018). In addition to providing the president with reports, recommendations, opinions, and considerations pertaining to the protection of Indonesian children, the committee is responsible for drafting and submitting reports, recommendations, opinions, and considerations.

Due to the many issues they generate, several residents of the community want children who are in conflict with the law to be punished. However, this goes against the rights of the child as outlined in the Child Protection Act (No. 23 of 2002), as amended by Law No. 35 of 2014, and the Child Criminal Justice System Law (No. 11 of 2012), which states that special attention must be paid to the treatment in criminal law when addressing acts and dealing with children in conflict with the law (ABH), in order to preserve the children's mental development and growth (Harahap, 2018; Pawelski et al., 2006).

The Social Welfare Organizing Institution (LPKS) helps solve problems faced by the community that specifically deals with problems faced by children. LPKS helps solve problems by coaching teenagers who have problems, both social problems and other problems (Syahlan, 2018). Coaching can be done in various ways depending on the needs of the child and depending on the problems faced (Winarno, 2019; White et al., 2021).

The authors raise the formulation of the problem, namely how the social rehabilitation program for children conflicts with the legislation, based on the context mentioned previously. The issue of Children in Conflict with the Law (ABH) was chosen because, compared to other cases of discrimination against children with disabilities or street children, ABH who are both perpetrators and victims tend to receive different treatment from society, and many people have a negative stigma and are intimidating towards children in conflict with the law (ABH) (Destritanti & Syafiq, 2019). Based on the amount of news circulating regarding criminal acts committed by minors, this study aims to open insight and awareness for the community that children who are exposed to cases and face the law should not be embarrassed or exiled, but must also be embraced for mental and physical recovery so that they are not depressed and do even more reckless actions to improve their lives.

## **B. METHODS**

This study used a qualitative approach with a descriptive research type. The type of research used in research is descriptive research, namely a type of research that guides researchers to explore or photograph social situations that will be thoroughly, broadly and in-depth examined (Sugiyono, 2011). The data collection method was carried out in several ways, namely participant observation, observations made in the form of

observations made on the object under study. In-depth interviews, if the researcher already knows what information will be obtained then in conducting the interview, he has prepared an instrument in the form of written questions. Document data collection is a record of events that have passed, usually in the form of writing or pictures, and researchers usually use photos related to the situation. This research uses primary data sources and secondary data sources. For technical data analysis used in this study, namely analysis according to Miles and Huberman in (Hardani, 2020) it is divided into three streams of activities that occur simultaneously which include data reduction, data presentation and drawing conclusions.

## C. RESULTS AND DISCUSSION

### Concept of Children Against the Law

These days, juveniles make up a sizable portion of society's criminal population. So that children are not victims in the future, there is a promise to put in place prevention and rehabilitation measures. In an effort to curb and treat juvenile misbehavior, the government ten years ago passed Law No. 11 of 2012, Concerning the Juvenile Criminal Justice System, which was meant to supplement and replace Law No. 3 of 1997, also pertaining to Juvenile Courts. The nation's future depends on the protection of children's rights, so these initiatives aim to establish a juvenile justice system that is dedicated to the best interests of the kid. Article 59, paragraph 2, Special Protection for Children as referred to in paragraph (1), subparagraph b of Law No. 35 of 2014 states that children who are in dispute with the law are children who require special protection.

Article 1 of Act No. 11 of 2012 on the Juvenile Criminal Justice System defines a child in conflict with the law as a child in conflict with the law, a child who is a victim of a crime, or a child who is a witness to a crime. Children in Conflict with the Law, or Children, are juveniles between the ages of 12 and 17 who are suspected of committing a crime. A child victim is a child under the age of 18 who suffers bodily, psychological, or financial harm as a result of a crime. A child who becomes a witness to a crime, afterwards referred to as a child witness, is a youngster under the age of 18 who can submit information about a criminal case that he has heard, seen, or experienced alone for the purposes of investigation, prosecution, and examination in court. Theoretically, children in conflict with the law are defined as individuals under the age of 18 who are in contact with the criminal justice system owing to criminal suspicion or allegation.

According to the clarification of Law, children in conflict with the law shall continue to obtain their rights while serving their sentence. 1. sympathetic care that takes his age-related requirements into account; 2. isolation from adults; 3. provision of effective legal and other help; 4. implementation of recreational activities; 5. freedom from torture, punishment, and other cruel, inhumane, and degrading treatment of dignity and degree. escaping the death penalty and/or life imprisonment; 7. avoiding arrest, incarceration, or jail except in extreme circumstances and for the shortest time feasible; 8. administering justice in a session of juvenile court that is impartial, fair, and closed to the public avoiding the revelation of his identity assisting parents/guardians and those in the child's circle of trust; 11. offering social advocacy; 12. delivering the gift of private life; 13. providing accessibility, especially for children with disabilities; 14. providing education; 15. providing health care; and 16. awarding additional rights in accordance with statutory provisions (Hambali, 2019).

All parties, not just children involved in legal issues, must interpret the attempts to offer protection for children in confrontation with the law in a comprehensive manner. Rather, it must address the underlying reasons why children commit criminal behaviors and measures to avoid them. The scope of the juvenile criminal justice system can encompass a vast range and complexity of concerns, beginning with the child's initial interaction with the police, the legal procedure, incarceration conditions, and social reintegration, as well as the actors involved in the process. (Nikhil Roy & Mabel Wong. 2004). Thus, the use of the phrase juvenile justice system must be founded on laws, norms and standards, procedures, mechanisms and provisions, organizations and agencies that apply especially to juveniles who commit crimes (Abdulraheem-Mustapha, 2020).

The School and Community Partnership Act (SPPA) assigns different roles to children who are in conflict with the law. These roles include children as perpetrators of crimes, children as victims, and children as witnesses. Children can be subject to two types of sanctions based on article 69 paragraph 2 of the SPPA Law. These sanctions are the imposition of punishment for children over the age of 14 and criminal acts committed by children under the age of 14, both of which fall under the category of "criminal acts committed by children."

a. **Criminal Punishment** The imposition of this criminal penalty applies to children over 14 years of age. There are 2 types of criminal punishment, namely principal and additional punishment. In the main criminal sentence there are conditions for coaching outside the institution, job training, supervision, community service, institutional support and prison. Additional punishment is in the form of deprivation of something that is profitable for the offender and fulfills the applicable customary obligations.

b. **Punishment in the form of action** This penalty applies to children under 14 years of age, this action is in the form of returning to their respective parents/guardians, treatment in a mental hospital if they experience psychiatric disorders, treatment at the Social Welfare Organizing Institution (LPKS), participating in all formal and non-formal activities that held by the government or private bodies as well as rehabilitation efforts.

Of course, the child is not yet emotionally mature so that makes the child tend to do things that he does not know that can be said to be a crime, there is no difference in treatment, all are considered the same, except if the act can be forgiven, then look at the motives and efforts to be held accountable. punishment seems to have to be imposed by the State as an "orderly measure" namely first to serve a sentence according to the criminal provisions of a maximum of 1/3 of the principal sentence as charged, second to being put in a child correctional institution, third to being put in a social institution, child rehabilitation. The last effort, namely the fourth, is to return to their parents/guardians (Afifah, 2014).

### **The role of LPKS as a place for Social Rehabilitation of Children in Conflict with the Law**

LPKS stands for "Institution for the Implementation of Social Welfare," which refers to organizations that provide social services to children. LPKS is an institution with a legal mandate to rehabilitate children in conflict with the law in line with an evaluation of their requirements, and it must be formed by or at the recommendation of the Ministry of Social Affairs.

The LPKS has an obligation to be abreast of key issues related to the administration of the juvenile criminal justice system for as long as the kid is involved in the judicial process. Specifically, there are four (4) core CRC principles that should form the basis of any legislative framework for juvenile offenders:

- a) The child's best interests as the paramount concern in all matters affecting children (Article 3);
- b) The principle of nondiscrimination, independent of race, color, gender, language, religion, political or other opinion, nationality, ethnicity or social origin, wealth, disability, birth or other status of the child or the child's parents (Section 2);
- c) Article 6: The child's right to survival and growth
- d) The kid's right to participate in all decisions affecting him or her, including the right to have their voice heard in court and administrative proceedings affecting the child (Article 12).

In addition, when interacting with the law, children must consider the principles outlined in the general comments of the UN Committee on the Rights of the Child, No. 10 concerning Children's Rights in the Criminal Justice System (children's rights in juvenile justice) reaffirms these principles, which include the right to a fair trial:

- a. Handling of children who are in conflict with the law must be consistent with efforts to realize the honor and dignity of children;
- b. The handling of children in conflict with the law must uphold respect for children's rights and other basic freedoms;
- c. The handling of children in conflict with the law must still take into account the age of the child and promote reintegration efforts and assume that children have a constructive role in society;
- d. Respect for the dignity of the child requires that all forms of violence in treating children that are in conflict with the law must be prohibited and prevented (paragraph 13, CRC/C/GC/10, 25 April 2007)

In line with the basic framework of the CRC above, the purpose of the juvenile justice system is basically to build a justice system that is fair and friendly to children (fair and humane). The characteristics of the juvenile

justice system that are fair and friendly to children include: a. Based on children's rights; b. Applying the principles of restorative justice; c. Placing the best interests of the child as the first and foremost reference; d. Focus on prevention as the main goal; e. Make detention sanctions as the last resort and if possible detain the child for the shortest possible time; f. The principle of proportionality; g. Emphasizes rehabilitation and reintegration; h. Carry out appropriate and timely interventions; i. Special procedures to protect children's rights. (Anwar & Rizanizarli, 2006).

In addition, the juvenile justice system must recognize the different responsibilities of children in juvenile criminal cases, including children as perpetrators, victims, and even witnesses. Responsibility must be differentiated as follows: a. For children who are in conflict with the law, the juvenile justice system is used; b. For children who are vulnerable or at risk of the law, the focus is on social services; c. For children who are victims and/or witnesses, every effort must be made to ensure that they continue to receive guarantees and protection throughout the legal process.

The concept of social rehabilitation is an effort to restore, function self-esteem, adapt to social norms, foster self-confidence, a sense of self-responsibility, family and social environment, so that they are able to lead a normal life. Social rehabilitation is a physical action according to psychology and maximum self-adjustment to prepare mentally, physically and socially for life according to ability. According to law number 8 of 1981 of the Criminal Procedure Code article 1 number 23 is the right to obtain restoration of his right to ability, dignity in the process of investigation, prosecution and even trial as a result of being detained, arrested, prosecuted and even tried without any clear reason in the law or there is a mistake in law. The rights of children who are in conflict with the law must be fulfilled during the rehabilitation process, these rights are: humanitarian behavior towards children, without corporal punishment, to separate adult convicts if the child is detained, to obtain legal assistance, guarantee of freedom and recognition, and to have privacy.

The effectiveness of social rehabilitation is influenced by infrastructure, human resources, psychological factors of the adolescents themselves and the discipline of the adolescents in undergoing rehabilitation. Rehabilitation has the goal of making it easier for children to return to society, not to get a bad stigma, to be aware of their abilities, and to have the idea that children are not born as criminals.

## D. CONCLUSION

Children dealing with the law are obliged to be responsible for all criminal acts in the form of violations/crimes committed by children, forms of accountability in criminal law, manifested in criminal punishment. Children in conflict with the law who carry out formal legal proceedings can receive the main punishment, in the form of confinement or additional penalties such as fines, although this can be paid by their parents. However, when children get punishment in criminal punishment in the form of punishment, they will get social rehabilitation. The process of social rehabilitation for children in conflict with the law is carried out by LPKS, which includes coaching individual actors, coaching group actors and restorative coaching. Individual coaching is a very important thing to do, especially in dealing with children's behavior, this is because many children have different behavior so that they require treatment in different forms of coaching. In conducting Social Rehabilitation, the LPKS is guided by the principles listed in the general comments of the UN Committee on the Rights of the Child, No. 10 concerning Children's Rights in the Criminal Justice System.

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