

LEGAL PROTECTION OF CHILDREN WHO SENTENCED TO IMPRISONMENT IN THE PENITENTIARY CLASS II B AT GIANYAR-BALI

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ABSTRACT

Indonesia with a variety of issue, all of which is so complex, forms a chain and cannot be disconnected, leaving a tragic story about the fate of the nation's children. So that not a few children who become criminals. In Act No. 35 of 2004 regarding Protection of the Child affirms, children who commit criminal acts termed the children dealing with the law. Sentenced to prison will be placed in penitentiary child, as provided for in Article 69 in Law No. 11 of 2014 regarding Juvenile Justice. Children who are placed in these prison vulnerable to violence, because it is outside the family (on the scope of authority of state institutions), that requiring protection. By using empirical legal research, this study aims to investigate the implementation of the legal protection of children incarcerated in the Prison Class II B Children in Gianyar, Bali. To find obstacles in providing legal protection for children who underwent imprisonment and efforts have been made to provide legal protection to children who underwent imprisonment.

Keywords: Legal Protection, Children, Imprisonment, Penitentiary

Introduction

Indonesia, is a state of law, as stipulated in the Constitution of 1945, Article 1 (3) which states that "Indonesia is a state of law," the law enforcement in Indonesia is fully the responsibility of the state is carried out by enforcement agencies law one of which is the penitentiary (who care about the lives of inmates while undergoing criminal past that question in this case is imprisonment). In principle, in Indonesia's Criminal Law, the purpose of the criminal sanctions should be used to build, make lawbreakers into repentance and not in retaliation (Panjaitan & Simorangkir, 2013, p 9). Children who have little or no attention physically mentally and socially often behave and act in antisocial behavior detrimental to him, the family and society.

Nowadays many children who become perpetrators of criminal acts. These children will be placed in the Children's Penitentiary (Prison), as stipulated in Article 69 paragraph (1) of Law Number 11 Year 2012 on Child Criminal Justice System. In Law No. 35 of 2014 on the Protection of the Child affirms, children who commit criminal acts termed the children dealing with the law.

Due to the absence of child protection will cause many social problems that can interfere with the enforcement of law, order, security and national development. So that child protection should be sought if we wanted to pursue national development (Atmasasmita, 2014, p 166).

Implementation of Legal Protection of Children in Penitentiary

Child protection regulated in Law No. 35 of 2012 on Child Protection is, to ensure the fulfillment of children's rights in order to live, grow, develop and participate optimally in accordance with the nature and dignity of human beings, as well as protection from violence and discrimination in order to realize quality of Indonesian children, noble, and prosperous. Children penitentiary as one of the institutions that are used to educate children undergoing imprisonment. In providing legal protection to do is to fulfill the rights of children who are undergoing criminal penalties.

Forms of legal protection given to children who are undergoing imprisonment; reserves the right to worship in accordance with the religion and beliefs of each, right to treatment of physical or spiritual, are entitled to education and teaching, are entitled to health care and a decent meal, has the right to make a complaint, entitled reading material and follows the broadcast media, are entitled to visit family, legal counsel, or other specific people, are entitled to a reduction in criminal past (remission), parole (assimilation).

In providing legal protection for children who underwent a criminal, not only fulfill their rights, but also gives good fostering and in accordance with the needs of these children, so that fostering is done effective.

Obstacles and Efforts in Providing Legal Protection of Children who Undergoing Criminal Prison in Penitentiary

In practice, there are obstacles, namely; there are different views with regard to child protection issues. The legal structure has not had the same paradigm. The protection of children is not enough just to understand from the law, but from multi aspects. Child protection is also a manifestation of justice in a society, and thus the protection of children should be sought in the various fields of national life (Shanty Dellyana, 2015, p 19).

In respect of with this matter according to Abdul Hakim N states that: "The issue of legal protection for children is an approach to protect the children of Indonesia. The problem is not solely be approached legally but need a broad approach, namely economic, social and cultural (Maidin Gultom, 2015,p 35).

Efforts could be made to improve the legal protection of the child perpetrators of criminal acts is, to provide understanding and dissemination of understanding and thinking about human beings, justice, rights and obligations, personal interests and national interests and thoughts of another positive as guidelines behave and act, participate in the activities involving the implementation of child protection.

Conclusion

Legal protection given to children in Penitentiary Class IIB in Gianyar, not running optimally and effectively. This is due to several factors, namely: the lack of facilities and infrastructure. Many problems occur, such as differences in the understanding of child protection, thus hindering the process of protection of children who undergoing imprisonment.

References

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