

# Application of the Basics of Justice in The Construction of Children Facing the Law in Class II A Community Boards Bekasi

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**Abstract.** The research relates to the application of the principle of justice in fostering children dealing with the law at the Class II-A Prison in Bekasi. The research method used is empirical juridical using primary data and secondary data. The results show that the application of the principle of justice in fostering children dealing with the law at Class II A Bekasi Correctional Institution prioritizes character-based education and training as in the purpose of the criminal system in Indonesia which is not aimed at providing misery or suffering, but aiming for change/improvement/ developments in convicts as regulated in Article 2 of Law Number 12 of 1995 concerning Corrections and Law Number 17 of 2016 concerning Child Protection. Therefore, to make this development successful, it is necessary to increase the number of educators and also to cooperate with business actors, so that children who have special skills and talents can be given jobs without reducing their rights as children in education and mental development.

**Keywords:** Justice, Guidance, Children, Correctional Institutions

## 1 Introduction

Crimes that have occurred in Indonesia lately are very diverse. The perpetrators of crimes that have been dominated by adults have now penetrated children as perpetrators of crime. Children as the next generation of the nation, which should be able to grow and develop with all the rights attached to them are threatened that they cannot be fulfilled perfectly. [1]

The high number of kids who are managing the law requires proper treatment so that the judicial process against children does not violate the rights inherent in the child which will harm the child's growth and development process in the future. Handling children who conflict with the law basically must pay attention to, maintain, and protect the rights inherent in children. It is necessary to realize that when children are in conflict with the law or commit a crime, we should consider them as victims of the circumstances around them.

So that when handling children, good coaching aspects are needed to change the attitudes and character of children for the better. Good coaching for children is coaching that can help children to be able to play a role again in society. One of these coaching efforts is to include children in Child Correctional Institutions.

Child prisons in Indonesia began with prison reform by the Dutch colonial in 1921 that gave attention to child convicts and the classification of adult convicts. Therefore, children under the age of 16 are placed in "education houses." The old prison building in Madiun was designated as a "repair prison house" for male convicts under the age of 19 to achieve it. This special prison house is the first prison for Indonesians to function as criminals. One of Hijmans' thoughts is the discourse of placing children outside the prison with conditions (probation) and the necessity to always prioritize the settlement of children's cases.[2]

The concept of rehabilitation for children's prisons remains the same following the duties and functions of prisons as regulated in Article 5 of Law Number 12 of 1995 concerning Corrections. However, to support the child rehabilitation process, the rehabilitation targets carried out by prisons should lead to five basic things, namely:

- a. Mental, Spiritual Rehabilitation
- b. Rehabilitation of Community Social Relations

In the modern state constellation, the law can function as a social tool. Therefore, fostering children who are serving sentences doesn't just depend on prison guards however should include all significant organizations including the local area, so the objective of cultivating prisoners can be realized by expectations.

- a. Sexual Rehabilitation
- b. Psychological Rehabilitation
- c. Rehabilitation of Character.[3]

Based on this, the Child Correctional Institution is an institution that functions to rehabilitate child prisoners. Rehabilitation means including mental-spiritual rehabilitation, rehabilitation of social relations, rehabilitation of children's psychological needs, and rehabilitation of children's character related to morals and character. 23 of 2002 concerning Child Protection, states that Child Prison is a place for children's education, not child punishment.

Child Correctional Institutions have duties and responsibilities in fulfilling the educational rights of Correctional Students where in Article 60 paragraph (1) and paragraph (2) of Law Number 3 of 1997 concerning Juvenile Court, it is stated that Correctional Students who are put in Child Correctional Institutions reserve the option to get schooling and preparing by their gifts and capacities as well as different privileges in light of the material regulations and guidelines.[4] It also happened to the Class II-A Correctional Institution in Bekasi.

The Class II A Prison in Bekasi is one of the most densely populated prisons in terms of the number of prisoners compared to its capacity. Head of the Class II-A Prison in Bekasi, West Java, Hensah, revealed that the number of residents of Class II-A Bekasi Penitentiary had exceeded capacity. In 2021, the number of inmates in prisons will be 1,822 people, even though the capacity is only 750 people. The convicts at Class II A Bekasi Correctional Institution are placed in two blocks. The number of residents today is 1,822. Block I is filled with around 1,500 and Block II is only filled with 300 because the blocks are small.

The fact that this excess capacity has certainly had a major impact on child prisoners inhabiting the Class II-A Prison in Bekasi, especially on children's rights to education and teaching. Alluding to the foundation depicted over, the fundamental issue that will be examined is the way to apply the rule of equity in fostering children dealing with the law at the Class II-A Bekasi Correctional Institution?

## 2 Research Methods

The research is empirical juridical research, which is a lawful exploration strategy that utilizes experimental realities taken from human way of behaving, both verbal ways of behaving got from interviews and genuine conduct helped out through direct perception. To notice the consequences of human way of behaving as actual relics and chronicles by utilizing observational examination. [5] Empirical research in this study is the research that portrays or depicts exhaustively, efficiently, completely, and profoundly the utilization of the rule of equity in fostering children dealing with the law at the Class II-A Prison in Bekasi. This examination is expressive on the grounds that it portrays the appropriate regulations and guidelines and is related with lawful speculations in their execution rehearses connected with the issues to be contemplated. The information got will be examined by subjective examination.

## 3 Results and Discussion

Children as part of the Indonesian nation, which is also the nation's next generation, have constitutional rights to get protection from the State. State insurance of youngsters' freedoms in the state constitution is attested in article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia), which reads, [3] each youngster has the privilege to endurance, development, and advancement and qualified for insurance and savagery and segregation.[6]

Protection from violence or discrimination against children is also given to youngsters who are culprits of criminal demonstrations. One of these protections is the right to have their placement separated from adult inmates in correctional institutions. These separate placements have been managed in the regulations and guidelines in Indonesia, to be specific, the arrangement that in the midst of others, Regulation Number 12 of 1995 concerning Corrections which in Article 4 communicates that Correctional Institutions including Child Correctional Institutions are spread out in every space or metropolitan capital.

After the authorization of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (hereinafter alluded to as the SPPA Law), the Correctional Institution changed its term to the Child Special Guidance Institution. The mixing of children with prisoners is also unfollowing the provisions of Article 3 letter (b) of the SPPA Law. Because the SPPA Law states that every child in the criminal justice process has the right to be separated from adults. And it is not by Article 17 paragraph (1) letter a of Law Number 23 of 2002 concerning Child Protection which expresses that each youngster who is denied of his opportunity has the privilege to get accommodating treatment and his situation is isolated from grown-ups. In addition, in the Correctional Law in Article 18 paragraph (1), Article 25 paragraph (1), and Article 32 paragraph (1) it is stated that Correctional Students consisting of Criminal Children, State Children, and Civilians are placed in Child Correctional Institutions. [7]

In practice, children who struggle with the law should be placed in a Child Special Guidance Institution, but there are times when children who conflict with the law are located in a general correctional institution. That is what happened to the Class II-A Prison in Bekasi.

Class II A Correctional Institution Bekasi is a general correctional institution, in the sense that it is an adult inmate. However, in practice, the Class II-A Bekasi Penitentiary also accepts children who conflict with the law to serve their sentence. Therefore, the Class II-A Bekasi Correctional Institution must provide character-based education and training to children in conflict with the law as mandated in Article 9 of Government Regulation of the Republic of

Indonesia Number 28 of 2006 concerning Amendments to Government Regulation Number 32 of 1999 concerning Terms and Procedures for Implementing the Rights of Correctional Inmates.

In light of this, the Class II-A Bekasi Penitentiary aides a work to work on the quality, devotion to God Almighty, scholarly, mentality and conduct, abilities preparing, proficient, and physical and otherworldly soundness of youngsters both inside and outside the legal cycle. criminal. According to PP No. 31 of 1999 concerning the Guidance and Guidance of Correctional Inmates, Child development consists of Personality Development and Independence Development activities.

Article 3 PP No. 31 of 1999 concerning the Guidance and Guidance of Correctional Inmates, it is stated that the Guidance and Guidance of Personality and Independence include devotion to God Almighty, awareness of the nation and state, scholarly, disposition and conduct, physical and profound wellbeing, legitimate mindfulness, sound reintegration with society, work abilities and occupation preparing and creation. Based on the author's observations, the coaching of foster children conducted at Class II A Bekasi Correctional Institution uses the principle of incarceration as a basis for coaching.

Such as protecting and providing for life so that the child can carry out his role as a good and beneficial foster citizen. Then sentencing is not for revenge, then provide non -torture guidance so that they repent, as long as prisoners and pupils are restricted from moving and should not be apart, then the guidance and education given to prisoners should be based on morals, and guidance and coaching are provided with adequate facilities and infrastructure.

The implementation of the coaching given to the foster children of the prison is:

- a. Personality Development includes spiritual development activities, legal awareness, physical, national, and state awareness, and other activities.
- b. Skills development includes activities for fostering agriculture, animal husbandry, carpentry, arts and Information Technology (IT), and other activities.
- c. Children's education is carried out consisting of Formal and Non-Formal Education.

Formal education includes 9 (nine) years of compulsory education/elementary school, junior high, and high school, regarding Non-Formal Education, includes Pursuit Package A for elementary level, Package B for junior high school level, and Package C for high school level

Based on this, in general, the Class II-A Bekasi Correctional Institution prioritizes character-based education and training. However, in its implementation, of course, the Class II-A Bekasi Correctional Institution faces several obstacles. To answer the problem of constraints, Lawrence M. Friedman's legal system theory can be used.

According to Lawrence M. Friedman, the concept of law consists of coercion and public acceptance. [8] In the law enforcement process, it is necessary to understand that law and order is coercive, it could be said, coercive as far as the presence of the law as an instrument to train and construct society. Driving is additionally as in the public arena should acknowledge and know the presence of the law to control itself in light of the fact that the law is an arrangement of rules and methods to secure, direct and control society. [9]

According to Friedman, the legal system in law enforcement is divided into 3 (three) elements, namely:

### **Legal Substance**

Friedman can explain the legal substance as follows:

“By this is meant the actual rules, norms, and behavior patterns of people inside the framework. This is, as a matter of first importance, "the law "in the well known feeling of the term-the way that as far as possible is 55 miles 60 minutes, that robbers can be shipped off jail, that 'by regulation' a pickle producer needs to list his fixings on the mark of the container". [10]

Based on this, Friedman said that what is meant by the legal substance are existing regulations, norms, and rules regarding human behavior, or what people usually know as "law" which is the substance of the law. If it is associated with this research, then the obstacle is from the juridical aspect, namely the absence of implementing regulations/Government guidelines that explicitly control the execution of formal school training for Child Prisoners in Correctional Institutions.

The Government Regulation of the Republic of Indonesia Number 28 of 2006 concerning Amendments to Government Regulation Number 32 of 1999 concerning the Terms and Procedures for the Implementation of the Rights of Correctional Inmates just makes sense of the responsibility for complete legitimate guidance in prisons. Notwithstanding, the specialized execution to help these exercises isn't directed exhaustively.

### **Legal Structure**

Aspects of structural elements by Friedman is formulated as follows:

“The structure of a legal system consists of elements of this kind. the number and size of courts; their jurisdiction (that is, what kind of cases they hear, and how and why), and modes of appeal from one court to another. Structure also means how the legislature is organized, how many members sit on the Federal Trade Commission, what a president can (legally) do or not do, what procedures the police department follows, and so on.“ [11]

Referring to the above formulation, the courts and their organizations, and the DPR are structural elements of the legal system. The DPR institution as an element of structure, equipment, and members of the DPR is an aspect of the form of the legal system. In this research, the legal structure is the Class II-A Bekasi Penitentiary.

One of the most minimal things in the effort to realize character-based education and training at Class II A Bekasi Correctional Institution is the lack of human resources to fulfill the rights of child prisoners to receive teaching in the Restorative Institution. Absence of investment from applicable organizations like the Ministry of Education and Culture, for this situation, the arrangement of instructors.

It is known that to improve the morals and personality of children in conflict with the law, it is necessary to have educators who have special skills in dealing with children in conflict with the law. Therefore, it is an obligation for the state through the Ministry of Education and Culture to prepare professional educators and have specific skills in educating and training the morals and personalities of children who conflict with the law so that they can become beneficial children for their families in particular, and society in general.

Another thing is the lack of budget. It is undeniable that to smooth the process of character-based education and training, a large amount of money is needed. Of course, this will be an obstacle and challenge for the Class II-A Bekasi Correctional Institution, which does not have a large enough budget to fulfill the children's rights in the Class II-A Bekasi Correctional Institution in fulfilling education and training.

### **Legal Culture**

Regarding legal culture, Friedman defines it as attitudes and society toward the law and the legal system, about the beliefs, values, ideas, and expectations of society about the law.

In his writings Friedman formulated it as follows:

“By this we mean people’s attitudes toward law and the legal system- their beliefs, values, ideas, and expectations, in other words, it is that part of the general culture which concerns the legal system”. [12]

On average, children who conflict with the law at the Class II-A Bekasi Correctional Institution are those who perpetrate violations more due to their obliviousness of the outcomes of the wrongdoings they have carried out. They never envisioned, assuming it turns out they will mope in jail and status as detainees. The vast majority of them feel apprehensive and focused when they enter jail. While entering jail interestingly, causes the Correctional Students to become apprehensive and shudder, particularly when they see different detainees who are large or even officials who look savage. The sensation of dread was perceived by all detainees.

One of the things that students think about in prison is the external conditions, such as the victim's condition, and the environmental view of him. Situations like this will always haunt his mind at all times. In a situation like this, children will be easily influenced by their friends, so what is called prisonization will arise. Before fact that society looked at him badly, students had stigmatized or branded themselves as bad people. He thinks there is no point in doing good because society thinks of him, so he will feel like doing evil again.

Based on this, it is necessary to support the family and also the community, to divert the concentration and thoughts of children in Class II A Bekasi Correctional Institution. Therefore, love from his family is necessary, besides the love given by the officer is also important which is not only based on the task he carries out to carry out coaching for students, but also sincere intentions so that his students can become virtuous and beneficial children when free from punishment. Therefore, prison guards should have the option to do their jobs as guardians, educators, and companions to understudies.

#### **4 Conclusion**

The application of the principle of justice in fostering children dealing with the law at the Class II-A Bekasi Correctional Institution prioritizes character-based education and training as in the goals of the criminal system in Indonesia, which is not aimed at providing misery or suffering but aiming to change/improvement/development of the convict as regulated in Article 2 of Law Number 12 of 1995 concerning Corrections and Law Number 17 of 2016 concerning Child Protection. Therefore, to make this development successful, it is necessary to increase the number of educators and also to cooperate with business actors, so that children who have special skills and talents can be given jobs without reducing their rights as children in education and mental development.

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