

Legal Protection For Abandoned Children According To Law Number 35 Of 2014 In Tegal Regency

Adhi Iskandar Dwi Saputra¹, Imawan Sugiharto², Moh. Khamim³
{adhi.iskandar81@gmail.com}

Magister of Law , Universitas Pancasakti Tegal, Indonesia

Abstract. This research was conducted to examine the protection of neglected children with a focus: How is the legal protection for neglected children based on Law Number 35 of 2014 and What are the forms of legal protection provided by the P3AP2 and KB Offices of Tegal Regency in dealing with neglected children. Research on Legal Protection of Abandoned Children According to Law Number 35 of 2014 in Tegal Regency obtained the results: The P3AP2 and KB Offices are more understanding and aware of the rights of children and the protection of neglected children. Law Number 35 of 2014 is an amendment to Law Number 23 of 2002 concerning Child Protection which has explicitly regulated and even clarified criminal sanctions and fines for perpetrators of cruelty to children and legal protection is all efforts to guarantee and protect children and their rights. so that they can grow, live, develop and participate optimally with human dignity. DP3AP2 and KB Tegal Regency have carried out various efforts to protect abandoned children for the fulfillment of children's rights through freeing education fees for neglected children and poor families, increasing access to get assistance for neglected children, increasing community participation and the formation of the Tegal Regency Regional Regulation Number 5 2016 concerning the Implementation of Child Protection.

Keywords: Legal Protection, Abandoned Children

1. Introduction

Indonesia is a legal state based on Pancasila, the 1945 Constitution of the Republic of Indonesia, hereinafter referred to as the 1945 Constitution of the Republic of Indonesia, there is a balance and integration of regular functions and development functions. The integration of these two functions causes the obligation of the Indonesian state to its people to become wider, where the state has the authority to regulate and direct all aspects of people's lives.

Children are a mandate given by God Almighty, which we must always protect because they have inherent dignity, worth and rights as human beings that must be upheld. Children's rights are part of the human rights contained in the 1945 Constitution of the Republic of Indonesia and the United Nations Convention on the Rights of the Child. In terms of national and state life, children are the future of the nation and the next generation of the nation's ideals, so that every child has the right to survive, grow and develop, participate and have the right to protection from acts of violence and discrimination as well as civil rights and freedoms.

According to the 1945 Constitution of the Republic of Indonesia in article 34 paragraph (1) that "abandoned children are cared for by the state" means that the government has a responsibility to neglected children, including street children. Law Number 23 of 2002 which was changed to Law Number 35 of 2014 concerning Child Protection was changed to Law Number 35 of 2014 concerning Child Protection. Abandoned children according to Law Number 35 of 2014 in Article 1 paragraph (6) explains that "Children whose needs are not met properly, both physically, mentally, spiritually, and socially".

The problem of abandoned children is not only the responsibility of the government, but the community, both individually and in groups, has a moral obligation to care and participate in helping abandoned children according to their respective abilities [1]. However, from the point of view of the existence of the ruler/government as a regulator of community affairs that functions as a protector, the government's responsibility is certainly much greater and far more strategic in handling neglected children. Abandoned children are one of the victims of the downturn in social welfare in Tegal Regency. With the lack of effectiveness and the implementation of various things that are efforts to protect children who are not under the care of their parents anymore. The formulation of the problem in this research are What is the legal protection for children who are neglected victims based on Law Number 35 of 2014?, and What is the form of legal protection provided by the Tegal Regency P3AP2 and KB Office in dealing with neglected children?

2. Method

This research is a normative juridical research, namely research that is based on secondary data by using Statute Approach and Conceptual Approach [2]. [3]The research specifications used in this research are descriptive - analytical, namely research that seeks to examine and provide a complete picture of the various data that are the object of research, then synergistically and systematically analyzed to obtain answers to the problems that have been formulated and provide solutions.

3. Discussion

Indonesia adheres to the concept of a modern/material legal state (welfare state) with the aim of realizing a just and prosperous society both spiritually and materially based on Pancasila and the 1945 Constitution of the Republic of Indonesia; so it is called the state of Pancasila law. In such a legal state, the functions/duties of the Indonesian state are as follows:

- a. Functions of security, defense, and order (defense, security, and protective functions). Included in this function are the function of protecting life, property rights, and other rights in accordance with those stipulated in the legislation.
- b. The welfare function, including it social services and social welfare. What is clear is that all activities aimed at the realization of the welfare of the community and social justice for all Indonesian people.
- c. The function of education (educational function), including it task of general information on nation and character building, cultural enhancement and so on.
- d. The function of realizing world order and prosperity peace and human welfare) in a broad sense

The Indonesian legal state is based on Pancasila and the 1945 Constitution of the Republic of Indonesia, thus there is a balance and integration of regular functions and development functions. Through the definition of the state as stated above, each The state has a state function. A legal expert named Wolfgang Friedman argues that the functions of the state include :

- a. as organizer or guarantor of welfare, or as the state as provider;
- b. as regulator or regulator, or the state as regulator;
- c. as entrepreneur, or the state as entrepreneur; and
- d. as referee, or the state as umpire

The state guarantees the rights and obligations of its citizens, in accordance with the 1945 Constitution of the Republic of Indonesia, namely in Article 34 paragraph (1), which reads, "The poor and neglected children are cared for by the state". In this case it is clear, the state as

a protector and protector and must be directly responsible for handling and fostering neglected children. This article is basically a constitutional right for all poor people and neglected children throughout Indonesia as subjects of human rights whose rights should be guaranteed by the State. The guarantee of the rights of a child since he was still in the womb has been regulated in the law. If the child is born dead, then these rights are considered to have never existed, this shows that the law views the baby in the womb as a legal subject who has civil rights. Children's rights are very numerous, commensurate with the right of care (protection) for themselves. So it is not an exaggeration if the state provides a protection for children from treatments that can threaten their future.

Legal protection for children can be interpreted as legal protection efforts against various violence and children's rights as well as various efforts related to child welfare [4].

Arif Gosita stated that child protection is an effort to provide conditions and situations that allow the implementation of rights and obligations of children humanely [5]. Therefore, every child's rights must be respected for the sake of achieving the goal, namely the birth of a healthy young generation for the survival of the nation. Article 1 of the Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, the definition of a child is "A child is someone who is not yet 18 (eighteen) years old, including a child who is still in the womb."

Law of the Republic of Indonesia Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection, in principle, child protection is based on Pancasila and the 1945 Constitution. The principle of protection is regulated based on the best interests of the child, where this principle stipulates that In all actions involving children carried out by the government, society, legislative and judicial bodies, the interests of children must be the main consideration. From a legal point of view, children have a strategic position and position before the law, not only as successors and heirs of the family but as part of the legal subject with all the fulfillment of needs for children who receive legal guarantees [6]. From a social perspective, the honor and dignity of the family depend on the attitude and behavior of the child to excel, and the culture of the child is a wealth that must be protected and is the successor of the tribe, nation, and economy [7].

[8]Social welfare includes various actions taken by humans to achieve a better level of community life. According to Sumarno Nugroho, social welfare is Social welfare as an organized function is a set of activities aimed at enabling individuals, families, groups and communities to cope with social problems caused by changing conditions. Some sources that can give us an understanding of The definition of an abandoned child, which includes:

1. The definition of abandoned child is a child aged 5-18 years who spend most of their time earning a living or roaming the streets and in public places
2. Abandoned children are children aged 6-18 years who experience mistreatment and neglect for certain reasons (because of some Possibility: poor/poor, one of his parents/guardian sick person, one/both parents/guardian or the caregiver dies, the family is not harmonious, there is no guardian or caregiver), so that basic needs cannot be met by natural, physically, spiritually and socially.
3. Abandoned children are children whose needs are not fully met natural, physically, mentally, spiritually, and socially.

The condition of abandoned children based on the description has been described above, then The problems experienced by neglected children can be formulated as follows :

1. Abandoned children take to the streets because of the family's economic pressure so that instead parents tell their children to go down to the street to use

looking for an addition to the family. This happens because no function of the family in meeting the needs of the family.

2. The low education of the parents of neglected children so that they do not knowing the functions and roles as parents and also their ignorance regarding children's rights.
3. There is no policy umbrella regarding children who take to the streets either policies from the police, local government, social services as well as P3AP2 and family planning services.
4. Social control is not yet optimal in society.
5. The role of social organization institutions has not yet been there is a multi-system base handling.
6. The social environment in which abandoned children live does not support them from the mental psychological side to enter formal school.
7. Lack of public appreciation of the potential and creativity of children displaced.

Legal protection is all efforts to guarantee and protect children and their rights so that they can grow, live, develop and participate optimally with human dignity [9]. Children are stewards of the ideals of the nation and must protect all the rights that exist in children, so that every child can grow and develop physically, mentally and socially. Therefore, there is a need for legal protection of children for the fulfillment of children's rights and treatment without discrimination. The legal umbrella for handling neglected children and street children needs to be issued a Regional Regulation (Perda) as the implementation of the Law on homelessness, which regulates the technical implementation, coordination, monitoring and evaluation of the handling of neglected children as well as family and community responsibilities. With the existence of a regional regulation, it is hoped that programs to improve the education, health and welfare of neglected children can run effectively and efficiently, transparently and accountably [10]. In this case, Tegal Regency has issued Regional Regulation Number 5 of 2016 concerning the Implementation of Child Protection.

In addition to the role of law enforcement, the role of the community is also important in the context of law enforcement which is manifested in the form of obedience. Legislation is made, of course, needs to be enforced. [11]What is meant by law enforcement is a series of activities in the context of implementing legal provisions both which are both preventive and repressive, covering all technical and administrative activities carried out by law enforcement officers so as to create a safe, peaceful and orderly atmosphere. to obtain legal certainty in society.

4. Conclusion

The P3AP2 and KB services better understand and are aware of the rights of children and the protection of neglected children Law Number 35 of 2014 is an amendment to Law Number 23 of 2002 concerning Child Protection which has explicitly regulated and even clarified criminal sanctions and fines for child abusers.

Legal protection is all efforts to guarantee and protect Children and their rights so that they can grow, live, develop and participate optimally with human dignity. DP3AP2 and KB Tegal Regency have carried out various child protection efforts, increased access to social assistance, increased Community Participation and formed the Tegal Regency Regional Regulation Number 5 of 2016 concerning the Implementation of Child Protection.

References

- [1] Muchsan. Sistem Pengawasan Terhadap Perbuatan Aparat Pemerintah dan Peradilan Tata Usaha Negara di Indonesia. Yogyakarta: Liberty; 2000.
- [2] Soeryono S. Penelitian Hukum Normatif: Suatu Tinjauan Singkat. 8th ed. Raja Grafindo Persada; 2012.
- [3] Bambang S. Metodologi Penelitian Hukum. Jakarta: PT. Raja Grafindo Persada; 2009.
- [4] Marzuki M, Peter. Penelitian Hukum. Jakarta: Kencana Persada Media; 2005.
- [5] Gosita A. Masalah Korban Kejahatan. Jakarta: Akademindo Pressindo; 2003.
- [6] Mukti FN, Achmad Y. Dualisme Penelitian Hukum Normatif. Yogyakarta: Pustaka Pelajar; n.d.
- [7] Adi IR. Ilmu Kesejahteraan Sosial dan Pekerja Sosial. Jakarta: FISIP UI Press; 2005.
- [8] Suud M. Orientasi Kesejahteraan Sosial. Jakarta: Prestasi Pustaka; 2006.
- [9] Emeliana K. Aspek Hukum Perlindungan Anak. Bandung: CV Utama; 2005.
- [10] Azhim SA. Salah Asuhan Problem Pendidikan Anak Zaman Sekarang & Solusinya. Cetakan I. Jakarta Timur: Istanbul; 2016.
- [11] Ida N. Prinsip-prinsip pembaruan Agraria Perspektif Hukum. Jakarta: Rajawali Press; 2009.