



Legal Protection for Child Criminals at the Juvenile Detention Center: Study of Psychiatric Health

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Abstract

Children are the young buds of the human beings. They are created by Allah as the best creature. But, they may be placed at a low degree as a human being if they are not obedient to Allah by doing evil things. To maintain their degree as a human being as intended by Allah in the creation of human beings, which is as the leaders of earth and as beloved servants, the human beings are obligated to have faith in Allah and carry out good deeds. But, not every person can grow and develop normally. Some cannot do so as they carried out criminal actions and have their liberties and their childhood taken away. This research is focused on the legal protection for criminal children at the Juvenile Detention Center through the legal-health analysis. The data obtained are then analyzed using the Capacities and Vulnerabilities Analysis (CVA).

Keywords: *Protection, Child criminals, Law, Health, Juvenile detention center.*

Introduction

The definition of child welfare is made clear in the Constitution No. 4 of 1979 regarding Child Welfare. It is stated that a child is someone who must receive their rights in the future, which may guarantee their proper growth and development. Because of that, children need protection. The children's welfare include the welfare in the health aspect and adequate legal protection which guarantees their development.

Then, the preamble of the Constitution No. 35 of 2014 regarding Child Protection further explains that: 1) A child is a citizen whose rights are protected as part of the human rights; 2) A child is a mandate and a blessing from the Almighty God, in which in him/her lies the dignity and the honor as a wholesome human being; 3) A child is a bud, a potential, and a young generation which will be the successor of the nation's vision of struggle; 4) A child is the future generation which is hoped to be responsible for the burden of the nation's and the state's sustainability of existence, thus, he/she must be protected. But, not all children may be raised as stated in the aforementioned regulation, which is to

live life normally. Some of them carry out abnormal behaviors [1].

Establishing the efforts of protecting children becomes the responsibility and the obligation of the state, the government, the society, the family, and the parents, as stated in Article 20 of the Constitution No. 35 of 2014 regarding Child Protection. Children who are faced with the law and who are then imprisoned become child criminals who are then placed in the Juvenile Detention Center. For the child criminal and all of their problems, to get out from the situation they experienced, there must be some trainings to change their mindsets, behaviors, and attitudes.

Thus, character building is crucial for them. Character building is an effort to grow and to develop one's character [2]. The character produced is in the form of temperament or behavior. The growth and the development of the character may be carried out through a norm-based order which is applied in the society [3]. According to AL-Ghozali, a child who is faced with the law and which then

becomes a child criminal will have an unhealthy psychological condition, because such condition is against the values of virtue which is applied in the society. Thus, there needs to be an education which brings the child to the normal direction. This is so that the children may live normally as other kids. Because of that, there needs a legal protection for the criminal children's education, so that they receive trainings which may bring their psychiatric condition betterment and health.

There needs to be some transcendental approaches and materials to succeed in healing their psychiatric condition, from abnormal to normal. Something is said to be transcendental when it is based on the things which are more rational and empirical. In the religious world, the term used is *faith* or *belief*. This becomes a strong force which pushes the awareness to improve oneself to develop.

Research Method

In this research, the approaches used are the statute approach [4, 5] and the case approach [4]. The statute approach is carried out to analyze the constitutional regulations which protect the interests of the criminal children. In this case, it becomes the basis in its implementation, which is in the form of legal protection in coachings. The information obtained in this research is then verified and analyzed using the Capacities and Vulnerabilities (CVA) [6] technique.

Results and Discussion

A child who is faced with the law and is verdicted as guilty are stated as law-violators. As a country which is based on law, when a legal case emerges in Indonesia, it should be solved through a just legal process. But here, where the social life is extensive, legal processes are not enough. The legal process cannot arbitrarily state that it has the highest right to monopolize the truth. In the case where children are faced with the law, it cannot solely handle the law to solve the problem holistically.

It is fact that the law in Indonesia is a dependent variable -it is always influenced by other variables or other social symptoms. A real example is that the law in Indonesia is far behind from the speed of technological innovation or other activities [7].

This includes the child criminal development in the Juvenile Detention Center, in which its application is based on the formal-legal regulations.

For a criminal child with all of his/her matters, there needs to be a developmental program to take them out from the situation they are trapped in. Such development is also to change their mindsets, attitudes, and behaviors. Thus, character building becomes crucial so that their psychological condition is maintained at a positive condition.

The Law's Definition of Children

Article 34 of the 1945 Constitution states that a child is a legal subject who must be protected, be cared for, and who must be fostered to achieve welfare.

In the aspect of age, the definition of children may be said as someone who is not yet an adult. The scope of a child's age based on some laws which are applied in Indonesia sometimes vary. But, the law which is usually used to show the scope of a child's age limit is the Constitution No. 35 of 2014 regarding Child Protection. It is stated that a child is a person who is not yet of 18 years, including fetuses in the womb.

From the description above, it can be concluded that a child is a human who is not yet 18 years old. He/she has the rights which guarantee the proper growth and development, as the state's citizens. Children are a mandate and a blessing from God which will become the bud of the younger generation who have the burden to maintain the existential sustainability of the state and the nation. For that matter, they must receive protection from the state to maintain their dignity and honor as human beings, which becomes the reference in creating policies which regard children.

The Rights of a Child Facing Legal Problems

Not every child can live normally, as some of them must face legal problems. Normatively, the rights of a child who is facing legal problems must also be given, as the rights of the children who are free. Herlina from the Indonesian Commission for Child Protection states that, "The children who are treated at the Juvenile Detention Center have access to education services, health services, and leisure."

Even so, the correctional centers or the detention centers are not a good place for children. In fact, some kids became worse after they have spent time in the detention centers or the prisons.

More than 4.000 children between the ages of 12 and 18 years went through legal processes on 2011, charged with theft, drug abuse, mass fights, attacks, and even rape. The number of children in face of the law decreased from 7.000 on 2009 and 2010, after the Indonesian Commission for Child Protection increased the campaign against child detention and imprisonment.

The study carried out by the United Nations Children's Fund (UNICEF) Indonesia on 2002/2003 and 2006/2007 showed that more than 5.000 children were imprisoned each year [8]. There is hard work carried out by the coaches to resolve problems they face, especially to realize the children's rights, so that their behaviors may be restored.

There needs to be some attention given to fulfil the rights of the children during the treatment process. This is so that their psychological condition may be restored to become normal. This treatment process must be according to the constitutional regulations and the implementation regulations which regulate it, including: the aim of the fostering process, the people who foster them, the things needed in the fostering process, and the people who are responsible.

The children who live in the Juvenile Halls do not deliberately receive their rights easily. Everything depends on the facilities available. It may be that the improved constitutional regulations are too ideal to be implemented.

The Psychological Protection of Children in the Transcendental Perspective

The child criminals who are in the Juvenile Detention Center must also have their rights maintained, through the treatment programs which are protected by the law. The Juvenile Detention Center's aim of existence must always be considered. This is so that it may bring the children to a better road through good methods. Then, the needs in the treatment programs are as follows:

The Aim of the Treatment Program

The aim of the treatment program for the criminal children in the Juvenile Detention Center is regulated in the Constitution No. 12 of 1995 regarding the Correctional Systems on Article 12. It is stated that the Correctional Systems are established to make sure so that the correctional institution residents become a wholesome human being, so that they realize their wrongdoings and improve themselves. Also, so that they do not repeat their criminal actions, and thus they may be reaccepted in their social environments and participate actively in the development. It is hoped that they may live normally as good and responsible citizens.

The aims formulated cannot always be holistically realized. In reality, there are still ex-residents of the correctional institutions who repeat their criminal actions. Worse, their modus operandi are more organized, and the level of the criminality increased. Meanwhile, their lives with the society may be disharmonized. This may be because of the ex-residents' bad actions or maybe because the people have lost their trust to them.

This bad reality may be caused by some internal or external factors which influence the correctional process. The statement, "So that they become a wholesome human being" in the formulation of Article 2, the Constitution No. 12 of 1995 may be defined as an effort to restore the residents to their nature in the relations between humans and God, between humans and themselves, between the human beings, and between the humans and the environment. In the perspective of the character-building education, such humans are called the *insan kamil* or humans with transcendental characters.

It means that these people acknowledge God Almighty as their Creators, thus they must obey all of His orders. Thus, the human beings must position themselves as His servant which will always serve Him [8].

The problems faced by the teenagers may encourage them to have deviative behaviors. Imam Ghozali calls it an abnormal behavior. These abnormal behaviors may be carried out both accidentally or on purpose, as the teenagers may have not understood the real order in the social environment.

If these behaviors are carried out on purpose, it is then called the juvenile delinquency, instead of the juvenile criminality. The juvenile delinquency is a deviation in a teenager's action or behaviors which are anti-social, which are against the social, religious, and legal stipulations which are applied in the society. This delinquency is a result of an incorrect interaction and transaction between a person and his/her environment [9].

Then, other causes of juvenile delinquency are as follows: A) Basic education which does not emphasize the character and personality development of the children. B) The parents' and the adults' lack of efforts in planting religious morality and beliefs to children. C) The lack of social responsibility development in the children [9]. From the statements above, another cause of juvenile delinquency may be said that there is a correlation between the neglect of childhood and the anti-social or aggressive actions in adulthood.

The fostering of the delinquent juveniles in the Juvenile Detention Center cannot be mixed with the adults. One child cannot be treated the same way as the other, as the types of delinquencies vary. Because of that, the placements must be sorted based on gender, the type of delinquency, and the period of detention.

The materials and the strategies are catered to the aims of the correctional programs. Apart from that, a safe and a comfortable environment must be created for the children, by giving a space for activities, an opportunity to create, and an access for ease. There must be respect to their opinions and there must be a fulfillment of their sense of safety. All of the aforementioned things must be stipulated in the form of regulations.

Conclusion

Based on the research's results and discussions, it can be concluded that: So that the psychological condition of the criminal children may be maintained, there needs to be a transcendental fostering program. This is so that the treatment of the children is based on their needs, both in the aspect of the fostering program or other apparatus.

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Even so, the protection of the criminal children in the Juvenile Detention Center so far cannot be the starting point for the next treatment program. Because of that, there needs to be an enhancement of the existing regulations, which may bring the detained children to be psychologically healthy.

The regulations may contain the strengthening of the facilities and infrastructure, the strengthening of fostering materials, including the treatment strategies which include the development of the cognitive, affective, and psychomotoric capabilities. There should be an integral strategy in the delivery of the materials and the internalization of good values through trainings and examples from the guides. This is to grow their awareness towards the actions they carried out, and so that they repent and grow the enthusiasm to live normally. This may be carried out through the strategy of self-evaluation or *muhasabah*. The regulations needed are as follows:

- The regulation on the implementation of the evaluation to acknowledge the treatment process carried out. There should be a suitable evaluation instrument with a clear aim and a clear benchmark. This is because the evaluation results determine the fate of the children in the future. They also become an input to the establishers of the criminal child fostering to increase the quality of their fostering service.
- The regulation on the treatment for child criminals is prioritized on the direction of attitude enhancement. This is so that the treatment elements are emphasized and directed to the morality enhancement, which will receive more attention. This is needed with the hope that the children may live normally again by receiving their rights and by realizing their responsibilities. Then, they may obtain freedom and may be accepted in their environments well.
- The best regulations regarding the treatment actors. Those who are most responsible are the families, especially the parents, the adults as members of the society, and the state as the protectors of the citizens [10, 11].

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