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LEGAL PROTECTION OF STREET CHILD ABANDONMENT VICTIMS WITHOUT PARENTAL CARE

Firmansyah Siregar

Faculty of Law, University of Jember, Jember, Indonesia

E-mail: sfirmansyah.sh@gmail.com**Corresponding Author: Firmansyah Siregar**

ABSTRACT

Street children as one of the problems in the field of children that occur as a result of the inability of parents to raise children so that street children are vulnerable to discriminatory behavior in society. Street children need a protection and welfare of children which can be realized with institutional and regulatory support, children in a general sense get attention not only in science, but can be noticed from a centralistic point of view of life, such as religion, law and psychology which makes children increasingly national and in the actual social environment Street children must still be cared for and protected because after all street children have the same rights and position as the next generation of development and ideals of the nation, state and religion because these children will later maintain, maintain and develop the results of their predecessors a child basically need care, protection, teaching, and affection.

Keywords: Legal Protection, Abandonment of Street Children, Parents.

INTRODUCTION

Child neglect as a legal subject who must be given protection and has the same position as a child in general according to Law No. 23 of 2002 concerning Child Protection as amended by Law No. 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Protection Child: "Child is someone who is not yet 18 (eighteen) years old, a child who is still in the womb". Furthermore, according to Kartini-Kartono, in her book entitled *Psychic Disorders* also explains the position of children as normal human beings who are still young in age and spirit, so they are very easily influenced by their environment..¹

Street children as creatures that will still develop into a complete human being in order to become a complete human being because they are still young in age and spirit, they are very easily influenced by their environment. In the context of development towards maturity the child will go through critical periods, and if these critical periods cannot be passed harmoniously then

¹ Kartini-Kartono. 1981. *Gangguan-Gangguan Psikis*. Bandung. Sinar Baru. h.187

symptoms will appear that indicate a disturbed personality and even become a complete failure in the task of being a social being to establish interpersonal relationships. satisfying human beings both for themselves and for people in their environment.²

Based on Muchsin's opinion that legal protection is an activity to protect individuals by harmonizing the relationship of values or rules that are embodied in attitudes and actions in creating order in social life among human beings.³ Legal protection as something that protects legal subjects through applicable laws and regulations and is enforced by a sanction. Legal protection can be divided into two, namely:⁴

1. Preventive Legal Protection Protection provided by the government with the aim of preventing violations before they occur. This is contained in laws and regulations with the intention of preventing a violation and providing signs or limitations in carrying out an obligation.
2. Repressive Legal Protection. Repressive legal protection is the final protection in the form of sanctions such as fines, imprisonment, and additional penalties given when a dispute has occurred or a violation has been committed.

In Bagong Suyanto's opinion, street children are essentially victims and a phenomenon that arises as a side effect of mistakes or inaccuracies in choosing a development model which so far has emphasized too much on the growth aspect and biased regional development which is too concentrated in big cities. Treating street children as part of the life of the city's criminal world and people who behave deviantly due to their inability to respond to the city's developments that are too fast, for some it might make us feel that we have done something, because from there difficulties can be avoided in understanding the existence of street children.

Street children must still be cared for and protected because after all street children have the same rights and position as the next generation of development and ideals of the nation, state and religion because these children will later maintain, maintain and develop the results of their predecessors, a child basically needs care, protection, teaching, and affection.⁵ This is done to ensure their physical and mental growth. Every child will bear responsibility in the future, so to be able to assume this responsibility they need to receive safety to grow and develop optimally, both physically, mentally and socially, through protection efforts to realize prosperity. children by providing guarantees for the fulfillment of their rights without discrimination, harassment, neglect and violence.

RESEARCH METHODS

Legal research methods in a scientific work become a fundamental element in answering the legal issues being analyzed. This legal research method is one of the methods that focuses on

² B.Simandjuntak. 1979. *Latar Belakang Kenakalan Remaja (Etiologi Juvenile Delinquency)*. Bandung. Alumni. hal 225.

³ Muchsin, 2003. *Perlindungan dan Kepastian Hukum bagi Investor di Indonesia*, Surakarta; magister Ilmu Hukum Program Pascasarjana Universitas Sebelas Maret, h. 14

⁴ *Ibid.* h. 15

⁵ Romli Atmasasmita, 2000, *Pengantar Hukum Pidana Internasional*. Bandung: Refika Aditama, h.52

legal scientific perspectives in examining and studying legal issues. Therefore, in order to provide structured and systematic legal research, a legal research method is needed. The research method in this study uses normative juridical law research as the main reference in analyzing legal issues related to the fulfillment of street children's law as a result of parental neglect. The legal approach used in addressing these legal issues uses a statutory approach with a library study collection technique so as to find a logical answer.

RESULTS AND DISCUSSION

Legal Protection Against Abandonment of Street Children Without Parental Care

Legal protection for children as an effort to protect the law against of fundamental rights and freedom of childrens.⁶ Based on Law Number. 35 of 2014 changes to Law Number. 23 of 2002 concerning Child Protection Article 1 point 6 which states that: "Warranted children are children who for some reason cannot have their basic needs met properly, both spiritually, physically and socially". Based on this understanding, street children who do not have custody are categorized as abandoned children, so their position is still the same.

Street children who are neglected so that the child's rights to grow and develop normally, the child's right to obtain proper education, and the child's right to obtain adequate health are not fulfilled due to negligence, parental ignorance, inability, or on purpose, The meaning of child neglect is not providing enough food, clothing, shelter or affection for a child, forms of child neglect, especially those carried out by biological parents in the form of relinquishing responsibility by leaving their children outside the home, are caused by various reasons, especially the economy caused Due to poverty and the lack of parental responsibility for parenting and child care, parents tend to let go of parenting responsibilities for their children when economic burdens are pressing and the child's needs cannot be met anymore.⁷

Efforts to protect and prosper children can be realized with institutional and regulatory support, children in a general sense receive attention not only in science, but can be considered from a Centralist point of view of life, such as religion, law and psychology which makes children more national and actual in the environment. social.⁸ With regard to the handling and protection of street children by the City Government, the existence of Regional Regulations as the basis for the handling and protection of street children in a city needs to be implemented by all stakeholders. Policy implementation is intended to understand what happens after a program is formulated, as well as what impacts arise from the policy program. Policy implementation is not only related to administrative issues, but also examines environmental factors that influence the process of implementing these policies. City government policies in dealing with the

⁶ Irma Setyo Wati Soemitro, 1990, *Aspek Hukum Perlindungan Anak*, Jakarta: Bumi Aksara, hlm 10

⁷ Departemen Sosial "Penelantaran Anak" <http://www.yannrehsos.depsos.go.id> diakses tanggal 2 maret 2022.

⁸ Maulana Hasan Wadang, 2003, *Advokasi dan hukum perlindungan anak*, Jakarta: Gramedia widiasarana, h. 32

existence of street children will be the key in efforts to reduce or even eliminate street children themselves for the sake of the nation's future.⁹

Fulfillment of Street Children's Rights as Victims of Child Neglect

Street children are still equal in the eyes of the law so that their rights are universally equated with children without distinguishing status or position. This, as regulated in the Convention on the Rights of the Child, can be grouped into 4 (four) categories of children's rights, namely:¹⁰

1. The right to survival (survival right), namely the rights of children in the Convention on the Rights of the Child which include the rights to preserve and defend life (the right of life) and the right to obtain the highest standard of health and the best possible care (the right attainable to the highest standard of health and medical care).
2. The right to protection (protection rights), namely the rights of children in the Convention on the Rights of the Child which includes the right to protection from discrimination, acts of violence and neglect for children who do not have families for refugee children.
3. The right to growth and development (development rights), namely children's rights in the convention on the rights of the child which covers all forms of education (formal and non-formal) and the right to achieve a standard of living that is appropriate for physical, mental, spiritual, moral and social development child.

The right to participate (participation rights), namely the rights of the child in the convention on the rights of the child which includes the right of the child to express opinions in all matters that affect the child (the right of a child to express her/his views in all matters affecting that child)

According to Nusa Putra in an article entitled *Blurry Portrait of Street Children*, it states that the general characteristics of street children are:¹¹

1. Being in public places (market streets, shops, entertainment venues) for 3-24 hours alone.
2. Low education (most drop out of school, very few finish elementary school).
3. Coming from underprivileged families (mostly urbanites, some of whom have no clear family).
4. Doing economic activity (doing work in the informal sector).

Based on the results of the study in the field, in general street children are divided into three groups namely:¹²

1. Children on the street, namely children who have economic activities as child laborers on the street but still have a strong relationship with their parents. Part of their income on the street is given to their parents. The function of street children in this category is to help strengthen

⁹ Sakman, 2016. "Studi Tentang Anak Jalanan (Tinjauan Implementasi Perda Kota Makassar Nomor 2 Tahun 2008 tentang Pembinaan Anak Jalanan, Gelandangan, Pengemis, dan Pengamen di Kota Makassar)". *Jurnal Supremasi*. XI(2), h. 203

¹⁰ Muhammad joni dan zulchaina z. Tanamas. 1999. *Aspek hukum perlindungan anak*. Bandung. PT. Citra Aditya Bakri. h. 37

¹¹ Suyanto, Bagong, 2010. *Masalah Sosial Anak*. Jakarta: Kencana, h. 28

¹² Bagong, *Masalah Sosial Anak*. Jakarta: Kencana. 2002. h. 37

their family's economic support because the burden or pressure of poverty that must be borne cannot be resolved by both parents.

2. Children of the street, namely children who participate fully on the street, both socially and economically, some of them still have a relationship with their parents, but the frequency of their meetings is uncertain. Many of them are children who for some reason, usually violently run away or leave the house. Children in this category are very vulnerable to abuse, both socially, emotionally, physically and sexually
3. Children from families of the street, namely children who come from families who live on the streets. Even though these children have quite strong family ties, their lives fluctuate from one place to another with all the risks. One of the important characteristics of this category is the exposure of street life since the child was a baby even when he was still in the womb. In Indonesia, this category can easily be found under various bridges, illegal houses along the railroad tracks and so on.

Based on the Law on Child Protection Article 4 which states that "Every child has the right to be able to live, grow, develop, and participate fairly in accordance with human dignity and dignity, and receive protection from violence and discrimination". It is based on this article that the State guarantees the welfare of each of its citizens, including the protection of children's rights which are human rights. Where is the right that is attached to the dignity and worth as a whole human being. so that every street child will be able to assume this responsibility in the future, then he needs to get the widest possible opportunity to grow and develop optimally, both physically, mentally and socially, and have a noble character, it is necessary to make efforts to protect and realize the welfare of the child by providing guarantees towards the fulfillment of their rights and the existence of treatment without discrimination. In order to realize the protection and welfare of children, institutional support and laws and regulations are needed which can guarantee their implementation to provide protection for street children who have the same legal standing.

Based on law 35 of 2014 concerning amendments to law number 23 of 2002 concerning child protection, article 6 states that "every child has the right according to his religion, thought and expression according to his level of intelligence and age under the guidance of parents or guardians. Then in article 9 paragraph (1), paragraph (1a) it is stated that paragraph (1) "Every child has the right to receive education and teaching in the context of personal development and intelligence level in accordance with interests and talents" and paragraph (1a) "every child has the right to protection in education units from sexual crimes and violence perpetrated by educators, educational staff, fellow students, and/or other parties".

Child protection is a business that provides conditions where every child can carry out his rights and obligations. The protection of children is a manifestation of justice in a society. Thus, child protection must be endeavored in various fields of state and social life.¹³ The fulfillment of the rights of street children is a legal obligation, therefore these rights are protected by a legal system, here the nature of the rights is for protection. The holder carries out his will in a certain

¹³ Arif Gosita. 2004, *Masalah Pelindungan Anak*. Jakarta Barat. PT Bhuana Ilmu Populer. h. 18

way, here the right has the nature of being a will, and that will is directed towards the satisfaction of certain interests; Here the right has the nature of an interest.¹⁴ In law 35 of 2014 concerning amendments to law number 23 of 2002 concerning child protection, it is stated in article 1 number 12 "children's rights are part of human rights that must be guaranteed, protected and fulfilled by parents, families, communities, state, government, and local government.

The existence of street children does not yet have a strong legal basis, but when viewed from the way they work and the goals of their actions as well as their age and behavior, it can be concluded that what is meant by street children is a group of people who tend to have a color of status life and are sometimes organized by figures who have charisma. in their environment as well as everyday actors who tend to deviate from the rules/regulations that apply. Street children spend most of their lives on the streets to meet their economic needs. In general, street children have characteristics that make them different from other children in general.¹⁵

CONCLUSION

Legal protection against neglect of street children without parental care by providing street children's welfare as part of attention in the field of child protection because it is one of the goals of development and the government's responsibility. as a result of the absence of child protection will cause various social problems that can disrupt the course of development, disturb order and security that are obliged to provide legal protection for street children or not. So that efforts to protect and prosper children can be realized with institutional and regulatory support, children in a general sense receive attention not only in science, but can be considered from a centralistic point of view of life, such as religion, law and psychology which makes children more national and actual. in a social environment

The obligation to fulfill the rights of street children who are victims of child neglect are actually not given the fulfillment of their rights as stipulated in law 35 of 2014 concerning amendments to law number 23 of 2002 concerning child protection. The fulfillment of the rights of street children is a legal obligation, therefore these rights are protected by a legal system, here the nature of the rights is for protection. The holder carries out his will in a certain way, here the right has the nature of being a will, and that will is directed towards the satisfaction of certain interests; Here the right has the nature of an interest.

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¹⁴ Zoelfirman. 2003. "Kebebasan Berkontrak Versus Hak Asasi Manusia (Analisis Yuridis Hak Ekonomi, Sosial, Dan Budaya)". Medan: UISU Pres. h. 58

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