

Rehabilitation and Social Reintegration of Family Based Prisoner Guidance

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Abstract: Article 2 (i) of Indonesian Law on No. 11 of 2012 on Youth Criminal Justice System states that deprivation of independence and criminalization as a last resort, and regarding to Article 85, children sentenced to imprisonment placed in a Special Prison for Children shall be entitled to coaching, guidance, supervision, assistance, education, and foster. The success of child guidance through rehabilitation and social reintegration, desperately needs support other than facilities and infrastructure, legal substance, legal culture, and government and society, but the more important thing is family role. But in the implementation of rehabilitation and social reintegration of child convicts, the family has not played a role effectively.

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I. INTRODUCTION

The State guarantees the welfare of every citizen including the protection of the child. In reality, a crime committed by a child always ends up in jail. Imprisonment is still the main choice (favorites) for Indonesian judges in imposing criminal sanctions.[1] Children who undergo legal proceedings and are imprisoned and placed in correctional institutions often face problems, especially in the fulfillment of their rights.[2]

Based on Article 71 (1) (b) Number 1 of Indonesian Law No. 11 of 2012 on Youth Criminal Justice System (called *UUSPPA* in Indonesia), if the child sentenced to prison, it is necessary to consider the imposition of criminal offense outside the institution. Then according to Article 85 paragraph (1), the child sentenced to imprisonment is placed in the Child Special Correctional Institution (Called LPKA in Indonesia). Paragraph (2), the child shall be entitled to coaching, guidance, supervision, assistance, education and training, and other rights. Paragraph (3) LPKA shall also provide education, skills training, coaching and other rights fulfillment. The imprisonment in "*UUSPPA*" is still mentioned as the principal penalty, but as a last resort.

Criminalization is not only for deterrence, but there is a wider function of guidance[3] through rehabilitation and social reintegration. However, the nature of guidance method conducted in LPKA is still based on elements of revenge and deterrence. This element of revenge and insurrection is inconsistent with the concept of social resocialization, rehabilitation and reintegration.

Implementation of child guidance faces various obstacles, such as; facilities and infrastructure, human resources, and overcapacity that occur in almost all prisons in Indonesia.[4] This limitation will have an impact on the implementation of coaching that becomes increasingly difficult and far from adequate. Penitentiary as one of the places of child guidance, should be able to role actively of convicted child in order to make them has quality as human being in whole human development.

Article 2 of the Indonesian Correctional Law states, "Penal system shall be organized in order to establish the Correctional Citizens to be fully human, to realize mistakes, to improve themselves, and not to repeat offenses so they can be accepted again by the community, and to participate actively in the development, and can live as good and responsible citizen. Guidance programs provided such as; training skills, self-reliance training, and spiritual guidance for the convicted person to prepare them back into the community.

To achieve the process of guidance, it should be focused on guidance efforts by involving families and communities in the context of rehabilitation and social reintegration. Parent and family involvement is very necessary in the context of guidance inside or outside the institution.

Family involvement in the framework of guidance is regulated in Article 14 sub-paragraph (h) of the Correctional Law mentioned that "prisoners are entitled to receive family visits, legal counsel, or certain other persons". Article 52 Paragraph (1) of the Indonesian Law of Human Rights states that "Every child has the right to protection by parents, family, community, and country.

In the explanation of Indonesian Law No. 35 of 2014 on Child Protection also states that "States, Governments, Local Governments, Communities, Families and Parents are obliged to provide protection and ensure the fulfillment of the rights of the Child in accordance with its duties and responsibilities"

II. LITERATURE REVIEW

Article 1 point 1 of *UUSPPA* states "The Criminal Justice System of the Child is the whole process of settlement of lawsuits against the law, begin with the investigation process to the guidance stage after getting out of prison. Therefore, family involvement is needed both when guidance inside or outside of the institution or after undergoing a criminal outside the penitentiary.

Prison is the final part of the penal system that is inseparable from a series of law enforcement processes. The position of *LPKA* as a guidance institution is very strategic in realizing the ultimate goal of the criminal justice system, namely rehabilitation and resocialization of law offenders, even to the prevention of crime.[5] Successes and failures of guidance will be assessed which may be positive or negative. Assessment will be positive, if the convicted child becomes law-abiding citizen. However, it can be negative, even a deterrence if the former convicted child committed another crime.

Article 1 Sub-Article 2 of the Correctional Law mentions that "Penitentiary System is a system of direction and boundaries based of *Pancasila*, which is implemented in an integrated manner between the guidance, convict, and the community to improve the quality of the Correctional Citizens to realize mistakes, improve themselves, and not commit again the crime, so they can be accepted again by the community, and they can actively join in development.

The purpose of the implementation of Penal System according to Article 2 of Indonesian Correctional Law is to establish Correctional Prisoners to be good human beings, to realize mistakes, to improve themselves, and not to repeat offenses so that they can be accepted by the community. According to Indonesian Government Regulation No. 31 of 1999 on the development and Guidance of Prisoners of Correctional Institution, guidance means an activity to improve the quality of devotion to God Almighty, intellectuality, attitude and behavior, professional, physical and spiritual health of Prisoners.

Penitentiary as a sub-system of criminal justice has a strategic function as the implementation of imprisonment and convict guidance. Therefore, it should be able to actively play role in educating convicts to become qualified human beings in human development.

The function of the Penal Institution, in fact is different and better than the old system of imprisonment based on Prison Rules.[6] Article 1 Sub-Article 3 of the Correctional Law defines a penitentiary as a place to carry out the guidance of child convict. Correctional institutions are in charge of establishing convicts as productive human beings, both within the penitentiary process and after being back in the community and contributing to the success of development.[7] Hamid Awaludin said, correctional is a process of guidance done by the state to the convicts and prisoners to become human beings and them who realize their mistake.[8]

The main principle of correctional, that punishment is no longer as the aim of imprisonment, but the convict guidance system. From that time the correctional system, has been known as "treatment" into the prison system in Indonesia.[9]

Philosophically, Penitentiary is a punishment system that has moved far beyond the philosophy of retributive (retaliation) and insecurity. Correctional social reintegration is in line with the philosophy which assumes that crime is a conflict between the convict and the community. So that punishment is aimed at restoring conflicts or reuniting convicts with their communities (reintegration).

Penitentiary is one of the manifestations of institutionalizing the community's formal reaction to crime. The reaction of the community initially only emphasized the element of falsification for lawbreakers. In line with the development of society and the development of peno-correctional philosophy, the element of suffering must also be balanced with the more humane treatment by paying attention to the rights of law-breakers both individually as social beings as well as religious beings.

The principles of a more humane treatment are reflected in the guidance of the convict, especially in restoring his position as a civilized society and respecting the values and norms held by society. Recovery of relationships is not possible if there is no positive interaction between the convicted and the value system prevailing in the community, in other words that the convict's fostering effort will not work effectively when the convicted child is out of the interaction with the value system prevailing in society.[11]

In the penal system, criminal prosecution is an effort to resuscitate the convict to be repented and become good citizens, obey the law, uphold moral values, social and religious. There are several things contained in the correctional process: Firstly, governed and managed in a spirit of guidance and coaching not on the basis of retaliation and harassment. Secondly, the guidance of convicted persons inside and outside the institution, and the last is requires the participation of prison officers, convicts and the community.[12]

Penitentiary as a sub-system of criminal law enforcement, in the implementation of the main duty and its function is obliged to create atmosphere of life of the convicts inside the Penitentiary become more

harmonious.[13] In the penal system the purpose of criminal conviction is required as the subject of coaching through rehabilitation and resocialization.

Criminal detention of children in conflict with the law should reflect on the value of justice, because children are the future of the nation. Article 2 of *UUSPPA* states that the Criminal Justice System is implemented on the basis of principle of; protection; justice; non-discrimination; d.the best interests of the child; e. appreciation of children's opinions; f. survival and growth of the child; g. coaching and guidance of children; h. proportional; i. deprivation of independence and punishment as a last resort; and J. avoid of retaliation.

Article 3 of the Indonesian Correctional Law states "Penal system serves to prepare prisoners in order to integrate well with the community, so they can return as a good society". Community participation in the guidance and attitude of the willingness to accept the return of the Beneficiaries after undergoing the punishment is very necessary. Community participation in convict guidance is a mandate of Article 93 of the *UUSPPA* which mentions "communities may participate in the protection of children from prevention to Child social reintegration".

Correctional institutions determine the ultimate goal of the criminal justice system, especially the process of guidance, so that they can socialize in the life of society, the aim is as a form of eliminating the label / stigma attached to them. The function of Correctional Institutions, in fact is very different and better than the old system of imprisonment based on prison rules.[14]

The Penitentiary system sees convicts as God's creatures, individuals and at the same time as members of society. The treatment of the convicted person is important in guidance, including "the situation (the environment) to be the critical success factor".

The family must play a role in the guidance of the convicted child, because family is the person who closest to the convicted person. Families also need to know the implementation and development of guidance that will be given. In addition, the public's attention to the convicted person, by visiting the convict in the community institution, is responsible and always encourage the convicted person to change himself for the better, useful for society and family, and think positively.

Convict guidance will end if the sentence is over, and after, the guidance will be taken over by the community, family and friend's convict. Takeovers are only possible if the community knows the results of the guidance that has been made and if coaching is not done it is likely that there will be repetition of the crime.

The public prejudice against the former convicted is based on the assumption that the convicted person is a bad person who is hard to curable. The attitude of the community is a sense of concern and public distrust of former convicts to become good citizens. Such an attitude makes former convicts feel alienated in the midst of society.

It is not surprise if the ex-convicts find it difficult to reintegrate into society. In addition, the negative stigma attached to the former convicted label causes many companies not to accept "ex" convicts as employees.[16]

Fostering the convict should be started from someone's status as a suspect, that coaching convict should not begin until the person enters stage convict status, but started early that since the suspects in detention.[17]

The guidance of a convicted person must be separated by the type of crime, such as narcotics, theft, fraud, embezzlement, murder, and so on. This is done to eliminate the imprisonment of the convicted person. Djisman Samosir [18] said it must be admitted that in prison there is imprisonment of the convicted person, meaning that the convicted person is affected by values living in prison such as customs and culture in prison.

Penitentiary as a place of guidance process, starting from the convict of children attends the prison until released from prison. [19] Guidance activities are directed at the ability of child convicted to integrate with the community. Convicted child who has run the guidance and has met certain requirements, then to realize the purpose of guidance is an effort that can be pursued through the implementation of social reintegration developed through guidance programs that include: a. assimilation; b. family leave; c. parole; d. free leave; and e. conditional leave.

In order to reform criminal law, especially criminal matters and conviction by considering the harm caused by the crime in sentencing in addition based on their actions then the objective imposed criminal liability is also an important factor and deserves to be noted that the effectiveness of the criminal function can be achieved.

Goals are equally important in criminal prosecution, because criminal (especially imprisonment) as mentioned by Berner and Teeters that prisons have grown into a place of contamination, precisely has been tried to avoid by prison authorities, because in this place, accidental offenders or newcomers in crime (novices in crime) are being treated and trained by "senior criminals". Even good people have failed to remove the enormous ugliness of this prison.[20]

Coaching programs need to be compiled based on the basic principles of penal, it is due to raise awareness of the law in fostering convicted child. A guidance program for child convicts in support of rehabilitation and social reintegration with the community is necessary, that "the entire process of guidance of

convicts during the penalization process is an integral entity towards the goal of returning prisoners to a free society with provision of skills (mental, physical, skills, as much as possible financially and materially) needed to be a good and useful citizen".[21]

According to John Delaney, reintegration of convicts into society must be made through the stages of self realisation process, a process which is paying close attention to the experience, values, hopes and ideals convict including cultural background, institutional and community conditions where he belongs. [22]

The guidance should be able to cultivate an atmosphere of mutual understanding and harmony between the fellow convicted person and between the coaches with the convict, so it will create a harmonious life in the prison. Implementation of rehabilitation of children can be done by restoring and developing physical, mental, with the ultimate goal with the participation of the family. The guidance must be able to foster an atmosphere of mutual understanding and harmony, both among the convicts and between the coaches and the convicts, so as to create a harmonious life in the penitentiary. Implementation of rehabilitation of children can be done by restoring and developing physical, mental, with the ultimate goal with the participation of the family. Families should play a role in the rehabilitation and reintegration of convicted child, because the family is the closest person needs to know the implementation and development of character.

Rehabilitation and social reintegration of convicted child aims to make children able to go back into society as responsible human beings. So when returning to society, they do not repeat the crime. This objective is consistent with the purpose of criminal prosecution. Basically there are three basic thoughts on the objectives to be achieved with a criminal prosecution, which include the following:

- a. Correcting the personality of the criminals themselves.
- b. Make people wary of committing crimes.
- c. Make certain criminals incapable of committing other crimes.

The process of social reintegration of convicted child also stymied, because the public has given label as criminals. People feel threatened by the return of convicts to the public. One response from people who feel threatened public order and tranquility of the surroundings then give rise to the stigmatization of individuals who perform deviant behavior.

III. CONCLUSION

Returns convicted child into society is the end of the process of rehabilitation and social reintegration. Therefore, it is indispensable the participation or support of the family and the communities in which the convicted person resides, because without the participation / support is not possible to be successful. Family is a big factor in role of guidance the convicted child to go back into society and as the first educational institutions, and major in child development. The concept of rehabilitation and social reintegration of convicted child realize the mistakes, not commit again the crimes and return to the community who is responsible for themselves, their families and the environment. But in this case, the role of the family still felt very less to participate in the process of rehabilitation and social reintegration of convicted child. The participation of families and communities in the process of social rehabilitation and reintegration is not only a mentor, but also as a supervisory team if there is an arbitrary act of officers whose main task is to prepare child and society prisoners to be able to receive again. In the framework of the implementation of the UUSPPA and the Child Protection Act, it is very important the participation of families, communities in coaching and mentoring to convict boy. In the family model that really stands out is the concept of punishment based on family, that if a child makes a mistake, it will be penalized, with the aim that the child is able to control himself, but after being penalized, and the child will be within the framework of love dear family and not regarded as a bad boy.

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