

Strengthening the Role of the Social Development Center for Child in the Case of Sexual Crime Against Street Children

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Abstract

Being a civilized nation is one of the values enshrined in the Pancasila and the Preamble of the 1945 Constitution of the Republic of Indonesia. However, today the Indonesian nation can be said to be experiencing a crisis of morality. It is proven by the rise of cases of sexual crimes that occur in the community. The irony is that the victims of sexual crimes are children. The average victims of sexual crimes are street children. In fact, almost all female street children have experienced sexual harassment and rape. The state through the Ministry of Social Affairs has subsequently formed a social institution that specifically copes the problems of street children. This institution is the Social Development Center for Child (SDC). The Social Development Center for Child (SDC) has a role in handling cases of street children. As according to the Government Regulation Number 2 of 2002 concerning Procedures for the Protection of Victims and Witnesses in Serious Human Rights Violations, victims are "individuals or groups of people who have suffered as a result of severe human rights violations that require physical and mental protection from threats, harassment, terror and violence from any party.

Abstrak

Menjadi bangsa yang beradab merupakan salah satu nilai yang tertuang dalam Pancasila dan Pembukaan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. Namun, dewasa ini bangsa Indonesia bisa dikatakan sedang mengalami krisis moralitas. Hal ini terbukti dari maraknya kasus kejahatan seksual yang terjadi di masyarakat. Ironinya korban dari kejahatan seksual adalah anak-anak. Mereka yang menjadi korban kejahatan seksual rata-rata adalah anak jalanan. Bahkan hampir seluruh anak jalanan perempuan pernah mengalami pelecehan seksual dan perkosaan. Negara melalui Kementerian Sosial selanjutnya telah membentuk suatu lembaga sosial yang khusus menaungi permasalahan anak jalanan. Lembaga ini adalah *Social Development Centre for Child (SDC)*. *Social Development Centre for Child (SDC)* memiliki peran dalam menangani kasus anak jalanan. Sebagaimana menurut Peraturan Pemerintah Nomor 2 Tahun 2002 tentang Tata Cara Perlindungan terhadap Korban dan Saksi-Saksi dalam Pelanggaran HAM yang berat, korban adalah "orang perseorangan atau kelompok orang yang mengalami penderita sebagai akibat pelanggaran hak asasi manusia yang berat yang memerlukan perlindungan fisik dan mental dari ancaman, gangguan, terror, dan kekerasan pihak mana pun.

INTRODUCTION

Cases of sexual crimes that occur in Indonesia usually involve minors as victims. In Indonesia, 40,000 - 70,000 children have been victims of commercial sexual exploitation of children. In more detail, in Semarang, Yogyakarta, and Surabaya, there are 3,408 child victims of prostitution in

brothels, streets, entertainment venues, and massage parlors. In West Java, the number of prostituted children in 2013 was 9,000 children or about 30 percent of the total Commercial Sex Workers (CSWs) of 22,308.¹ Most children who are victims of sexual crimes are street children. As we know, street children survive by carrying out activities in the informal sector, such as shining shoes, selling newspapers, begging, busking, stealing, picking pockets and even engaging in sex trafficking.²

The world of street children is a world full of violence and exploitation. The Study Report on Violence Against Children released by the United Nations on August 29, 2006, states that around 150 million boys aged 18 years experienced forced sexual relations or other forms of violence during 2002. In addition, even almost all street girls have been abused sexually and rape. When they are sleeping, they often become victims of their friends or street communities, for example, is influenced by their bodies and vital organs. Female street children are also known to be vulnerable to being victims of commercial sexual exploitation which includes prostitution and trafficking for sexual and pornographic purposes.³

In the Preamble to the 1945 Constitution of the Republic Indonesia, it stated unequivocally that "Protecting the entire Indonesian nation and all Indonesian blood spills and promoting public welfare" are the ideals and goals of the Indonesian people. In this case, as stated in Article 34 paragraph (1) of the 1945 Constitution of the Republic of Indonesia that the poor and destitute children shall be cared for by the State. Article 23 paragraph (1) of Law Number 23 the Year 2002 concerning Child Protection states that the state and government guarantee a child's protection, nurturing and welfare by considering the rights and obligation of parents, guardians, or other people who are legally responsible for a child. It shows that there is serious attention from the government towards children's rights and their protection.⁴

Indonesian children protection means protecting human potential resources and developing Indonesian people completely, towards a just and prosperous society, spiritual material based on Pancasila and the 1945 Constitution of the Republic of Indonesia.⁵ Whereas legal protection according to the International Convention on the Rights of the Child includes the right to get special protection if the child is in conflict with the law, the right to get special protection if the child is exploited as child labor, the right to get special protection if the child is exploited in drug abuse, the right to get legal protection if the child is sexually exploited and sexual abuse, the right to special protection from the abduction, sale, and trafficking of children.⁶ The country, through the Ministry of Social Affairs, has subsequently formed a social institution that specifically houses the problems of street children, that institution is the Social Development Center for Child (SDC).

The frequent violations and despicable acts that occur in social life in Indonesia, especially sexual crimes against children, especially to street children make the authors question the real performance of the role of social institutions in overcoming and resolving cases of sexual crimes and guaranteeing the rights of street children as victims. In connection with the background described

¹Indah Putri Rahmawati, "Kontruksi Pajak Lingkungan di Indonesia", *Jurnal Wacana Hukum*, Volume 25, Nomor 2 (2019)

²Jaelani A.K, Basuki U, "Problematika Pelaksanaan Putusan Mahkamah Konstitusi Nomor 100/PUU-XI/2013 dalam Mendudukkan Pancasila Sebagai Dasar Negara", *Jurnal Wacana Hukum*, Volume 24, Nomor 2 Tahun 2018.

³Arvita Hastarini, "Keabsahan Perjanjian Kerja yang dilakukan Anak di Bawah Umur", *Jurnal Wacana Hukum*, Volume 25, Nomor 2, Tahun 2019.

⁴Bambang Ali dan Abdul Kadir Jaelani, "Menggagas Constitutional Complaint dalam Konstitusi Indonesia dan Politik Hukum Islam", *Jurnal Wacana Hukum*, Volume 24, Nomor 1 Tahun 2018.

⁵Arifin Ma'ruf, "Kedudukan Asas Kebebasan Berkontrak dalam Kebijakan Kemitraan Kehutanan", *Jurnal Wacana Hukum*, Volume 25, Nomor 1 Tahun 2019.

⁶Jaelani A.K, "Pengembangan Destinasi Pariwisata Halal pada Era Otonomi Luas di Provinsi Nusa Tenggara Barat", *Jurnal Pariwisata*, Vol.V, No.1, April 2018.

above, the authors intend to examine whether the Institute for Social Development Center for Child (SDC) has performed its full role and guaranteed the rights of street children as victims of sexual crime and what efforts should be made by the Social Development Center for Child (SDC) in guaranteeing the rights of street children as victims of sexual crime.⁷

RESEARCH METHODS

Legal studies have characteristics as prescriptive and applied sciences".⁸ Legal research is the process of finding legal rules, legal principles, and legal doctrines to address the legal issues at hand. This is in accordance with the prescriptive character of legal science. In contrast to research conducted in descriptive studies that examine the truth of the presence or absence of facts due to certain factors. Legal research is carried out to produce arguments, theories, or new concepts as a prescription in solving problems encountered.⁹ The approach that the authors use in this research is the statute approach and conceptual approach. This approach is carried out by examining all laws and regulations relating to the problems (legal issues) being faced. This legislative approach, for example, is carried out by studying the consistency/conformity between the Basic Law and the Law, or between one Law and another Law. Then move from the views and doctrines that developed in the science of law. This approach is important because understanding the views/doctrines that develop in the science of law can be a foundation for building legal arguments when resolving the legal issues at hand. Views/doctrines will clarify ideas by providing legal understandings, legal concepts, and legal principles that are relevant to the problem.¹⁰

The primary legal materials used in this study are the 1945 Constitution of the Republic of Indonesia, Law Number 23 of 2002 concerning Child Protection, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection Law Number 31 of 2014 concerning Protection of Witnesses and Victims and Government Regulation Number 2 of 2002 concerning Procedures for the Protection of Victims and Witnesses in Serious Violations of Human Rights. Secondary legal materials used in this study are journals and books or scientific works related to the problem under study, relevant research results and other supporting books. The tertiary legal materials used in this legal research are in the form of legal dictionaries, Indonesian general dictionaries, articles, and the internet.

DISCUSSION

The establishment of the Social Development Center for Children (SDC) by the Ministry of Social Affairs is one way to alleviate the problems of street children. One of the roles of the Social Development Center for Children (SDC) is to provide facilities in the form of social services. These services consist of:

1. social, physical, and mental guidance
2. counseling,
3. religious guidance,

⁷Karjoko L, Nurjanah Y, "The Legality of Freehold Title and Legal Implications Against of Land Makers Officers (The Study of Freehold Title Issuance Number 1576/Nusukan Village, Banjarsari Sub-District, Surakarta City, Central Java)", *International Journal of Scientific and Technology Research* 8(10), 2019.

⁸ Peter Mahmud Marzuki. 2010. *Penelitian Hukum*. Jakarta : Kencana Prenada Media Group, page. 22.

⁹Jaelani A.K, Handayani I.G.A.K.R, Isharyanto, "Regulation of Regional Government on Halal Tourism Destinations in West Nusa Tenggara Province after Constitutional Court Decision Number 137/PUU-XIII/2015", *Proceeding Atlantis Press: Advances in Social Science, Education and Humanities Research*, Volume 358, Tahun 2019.

¹⁰Johnny Ibrahim. 2006. *Teori dan Metodologi Penelitian Hukum Normatif*. Bandung : PT. Remaja Rosdakarya, page. 321.

4. formal education (elementary, junior high, high school)
5. packages A, B, and C,
6. vocational training & life skills,
7. internship,
8. charging free time.
9. family empowerment and health services.

In conducting this service, the Social Development Center for Children (SDC) has a flow. The first is by tracing and initial approaching to the street children. Followed by identifying the assessment. Next is a case conference is conducted. Only then will reintegration and reunification be carried out.¹¹ The role of this institution in alleviating cases of sexual crimes affecting street children is felt to be lacking. Therefore it is necessary to strengthen the role of the Social Development Center for Child (SDC). The strengthening of this institution can be done by:

1. Provide Legal Protection

Children are the next generation who need special legal protection that is different from adults, due to physical and mental reasons for children who are immature and mature. Children's legal protection is defined as an effort to protect the law of children's freedom and human rights related to their welfare.¹² Article 17 paragraph (2) of Law Number 23 the Year 2002 concerning Child Protection also stipulates that "every child who becomes a victim or actor of sexual assault or who is against the law has the right to be kept confidential. Providing legal protection to street children is very important so that it can be one way to reduce the number of sexual crimes that occur to street children due to the existence of definite legal protection for street children. This can be done by establishing cooperation with the Ministry of Law and Human Rights (Kemenkumham) in ensuring legal protection for street children.

Establishing cooperation with the Ministry of Law and Human Rights is one form of the realization of Article 34 paragraph 1 of the 1945 Constitution of the Republic of Indonesia which states that the poor and abandoned children are maintained by the state and Article 23 paragraph (1) of Law Number 23 of 2002 concerning Child Protection which confirms that the State and government guarantee the protection, nurturing and welfare by considering the rights and obligation of parents, guardians, or other people who are legally responsible for a child

2. Providing Sexual Education (Sex Education)

Generally, street children do not have knowledge about sexual education due to the low level of education. It makes street children do not understand what is meant by sexual crime. Even ironically, they do not realize that they are one of the victims of sexual crimes. For that, they need to get sexual education. This education can be done by providing counseling and socialising that can be done by the Social Development Center for Child (SDC) through collaboration with relevant agencies, such as the Health Office.

The Social Development Center for Child (SDC) has a role in handling cases of street children. But in its service program, the Social Development Center for Child (SDC) does

¹¹Jaelani A.K, Handayani I.G.A.K.R, Karjoko L, "Executability of the Constitutional Court Decision Regarding Grace Period In The Formulation Of Legislation", *International Journal of Advanced Science and Technology* Vol. 28, No. 15, (2019). Page. 816-823

¹²Jaelani A.K, Handayani I.G.A.K.R, Karjoko L, "Development of Tourism Based on Geographic Indication Towards To Welfare State", *International Journal of Advanced Science and Technology* Vol. 29, No. 3s, (2020). Page. 1227-1234.

not provide guarantees to street children as victims of sexual crimes. As according to Government Regulation Number 2 of 2002 concerning Procedures for the Protection of Victims and Witnesses in Serious Human Rights Violations, victims are "individuals or groups of people who have suffered as a result of severe human rights violations that require physical and mental protection from threats, harassment, terror and violence from any party."¹³

As a part that suffers and loses, the victim has rights that can be obtained as a victim.¹⁴ These rights are included in Article 5 of Law Number 31 of 2014 concerning Protection of Witnesses and Victims, which states that victims are entitled to (Article 5 point 1 of Law Number 31 of 2014 concerning Protection of Witnesses and Victims):

1. Obtain protection for personal, family, and property security, and be free from threats relating to the testimony that will, is, or has been given;
2. Participate in the process of selecting and determining forms of protection and security support;
3. Provide information without pressure;
4. Get a translator;
5. Free from entrapment questions;
6. Get information about the development of the case;
7. Get information about court decisions;
8. Find out in the event that the convict is acquitted;
9. Confidentiality of identity;
10. Get a new identity;
11. Get a temporary residence;
12. Obtain reimbursement for transportation costs as needed;
13. Getting legal advice;
14. Obtain temporary assistance in living expenses until the protection deadline expires; and / or
15. Get assistance.

Because there are no appropriate guarantees of the rights to street children as victims of sexual crimes, the role of the Social Development Center for Child (SDC) needs to be strengthened. This can be done in several ways, including providing legal protection for street children is one of the guarantees of the rights to street children as victims of sexual crimes. As the legal protection for victims of crime is very necessary. Protection according to the Witness and Victim Protection Act is all efforts to fulfill rights and provide assistance to provide security for victims that must be carried out by LPSK or other institutions in accordance with the provisions (Article 1 number 8 of Law Number 31 of 2014 concerning Protection of Witnesses and Victims). The importance of protecting victims of crime can be seen from the establishment of the Declaration of Basic Principle of Justice for Victims of Crime and Abuse of Power by the United Nations, as a result of the seventh United Nation Congress on the Prevention of Crime and the Treatment of Offenders, which took place in Milan, Italy, September 1985. In the UN declaration, forms of

¹³Harimurti F, Jaelani A.K. "Implications of Halal Tourism Sector to Optimize Regional Own Source Revenue of Tax And Tourism Charges in East Lombok Regency", *International Journal of Advanced Science and Technology* Vol. 28, No. 15, (2019). Page. 830-838

¹⁴Indrastuti L, Jaelani A.K., Nurhidayatullah, Iswanto, "Decentralization of Health in the Era Of Extensive Autonomy in North Konawe District", *International Journal of Advanced Science and Technology* Vol. 28, No. 15, (2019). Page. 845-853

protection that could be given to victims were formulated, namely:¹⁵ access to justice and fair treatment, restitution, compensation and assistance.

Provide rehabilitation to street children as victims of sexual crimes. The provision of rehabilitation aims to restore the psychological condition of children. Psychological children who are victims of sexual crimes are certainly disturbed. The provision of rehabilitation that leads to the psychological of the child can be done by working with child psychologists to restore the psychological condition of children as victims. Provide the health inspection services. Health inspection services are services for controlling and checking the health of victims by medical team, so that the health of the victim is known. Provide skills services. Skills service is a work skills guidance service, such as carpentry, workshop, plantation, salon, sewing, handicraft, repairing watching TV, computer and so on Provide entertainment and recreation services. Entertainment and recreation services means services that are intended to provide a sense of joy and pleasure through games, music media entertainment and visits to a place.¹⁶

The function of the Social Development Center for Child (SDC) is to address the problems of street children. But the service program offered is still lack and there needs to have more new innovations to create a healthy and lawful generation. The innovations can be in the form of:¹⁷

1. Introduction to law

With the limited knowledge of street children as victims of sexual crime regarding the law, it is necessary to introduce the law to the victims through informal education by the Social Development Center for Child (SDC). The introduction of this law can be taught indirectly starting from the smallest thing. For example, children are encouraged to obey applicable regulations. In addition, this legal knowledge is also expected to be a provision for victims to protect themselves from unwanted things that might happen.

2. Sexual Education

As we know, sexual education is very important for street children, especially victims of sexual crimes. However, because the child's ability to catch varies, different portions must be distinguished in the provision of sexual education. This sexual education is later expected to be a provision for street children victims of sexual crimes to avoid the danger of free sex, for example HIV / AIDS. This sexual education can be provided by the Social Development Center for Child (SDC) through cooperation with various relevant agencies, such as the local Health Office. In addition, sexual education can also be included in the formal education program curriculum which is one of the services of the Social Development Center for Child (SDC).

3. Moral Education

Moral education is needed. It can be an effort to create a healthy generation. Moral education is aimed at making street children grow up with morals that are in accordance with Pancasila.

4. Health Services

¹⁵Lego Karjoko, "Aspek Keadilan Alih Fungsi Lahan Pertanian Ke Non Pertanian (Studi Kecamatan Nguter Kabupaten Sukoharjo)", *Jurnal Repertorium*, Volume IV No.2 Juli-Desember 2017.

¹⁶Lego Karjoko, I Gusti Ayu Ketut Rachmi Handayani & Adi Sulistiyono, "Setting of Plantation Land Area Limitation Based on Social Function Principles of Land Cultivation Rights to Realize Social Welfare-Promoting Plantation", *Jurnal Dinamika Hukum*, Volume 17, Nomor 1 Tahun 2017.

¹⁷Lego Karjoko, Hasmonel, "Aspek Keadilan Pemberian Hak Guna Bangunan di Atas Hak Milik", *Prosiding Seminar Nasional*, Fakultas Ilmu Sosial dan Ilmu Politik, Universitas Terbuka UTCC, 26 Agustus 2015.

Besides the victims of sexual crimes' rights, health services are also ways to create a healthy and legal generation. Children who are victims of sexual crimes can be provided with appropriate health facilities. For example, examining reproductive organs, giving immunizations, etc. This health service can certainly be carried out by the Social Development Center for Child (SDC) in collaboration with the local Health Office or Hospital. So, with this health service, the desired healthy generation can be realized.

CONCLUSION

The Social Development Center for Children (SDC) is a protection institution under the supervision of the Ministry of Social Affairs which has a function as a place for street children and further increases success in overcoming the problems of street children, both in quality and quantity. With the role of the Social Development Center for Children (SDC) institutions, the lives of street children can be guaranteed. The function of the institution itself as a whole is as a boarding house for street children, as well as an institution that runs a continuation of the service process that has been provided by institutions or open houses, as the origin of referrals for handling street children. However, the role of this institution in alleviating cases of sexual crimes affecting street children is felt to be lacking because the agency does not provide guarantees to street children and there are no guarantees of street children's rights as victims of sexual crimes, so the role of the Social Development Center for Child needs to be strengthened. Strengthening the role of the Social Development Center for Child (SDC) institutions, namely carrying out rehabilitation, health checks, providing legal protection and providing sexual education.

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