

## **Legal Review Regarding Guidance at the Special Child Guidance Institution (LPKA)**

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### **ABSTRACT**

Problems arise when density occurs in LPKA, as explained above, the era of globalization tends to have a negative impact on the younger generation, thus encouraging them to commit a crime. As a result of the rapid and rapid development of information technology, sooner or later it will renew human behavior and civilization globally, because information technology makes the world limitless. The guidance system at the Special Child Guidance Institution (LPKA) in accordance with the integration policy aims to provide holistic protection, education, and rehabilitation for children in conflict with the law. Ideally, children receive formal education equivalent to public schools as well as vocational skills training to prepare them to return to society with adequate provisions, in addition to the implementation of the Psychosocial Rehabilitation Program, this program includes individual and group counseling, therapy, and social activities aimed at improving the psychological and social conditions of children. So that children are encouraged to participate in various recreational and sports activities to develop social and physical skills and maintain their mental health. Furthermore, in order to maintain the ethics and morals of children in LPKA, Religious and Moral Guidance is important to do, this program provides religious education and moral guidance to shape the character of children so that they have a strong moral foundation. Through this integration policy, it is hoped that children can undergo guidance more effectively and can reintegrate well into society, reducing the possibility of them being involved in criminal acts again.

**Keywords: Guidance, Child, LPKA .**

### **A. Introduction**

The Child Criminal Justice System Law states that every child in the criminal justice process has the right to be separated from adults. And it is not in accordance with Article 17 paragraph (1) Letter a of Law Number 23 of 2002 concerning Child Protection which states that every child whose liberty is deprived has the right to receive humane treatment and be placed separately from adults. In addition, in the

Correctional Law in Article 18 paragraph (1), Article 25 paragraph (1) and Article 32 paragraph (1) it is stated that Correctional Children consisting of Criminal Children, State Children and Civil Children are placed in Juvenile Correctional Institutions.

The term Correctional Student is currently no longer used. This is in accordance with the provisions in force in the Child Criminal Justice System Law, namely in Article 1 Letter 3 which reads, "A Child in Conflict with the Law, hereinafter referred to as a Child, is a child who is 12 (twelve) years old, but not yet 18 (eighteen) years old who is suspected of committing a crime". So in accordance with these provisions, the term Child in Conflict with the Law who is undergoing guidance, which is usually referred to as a Correctional Student, with the enactment of the Child Criminal Justice System Law is referred to as a Child.

In essence, LPKA plays an important role in the continuation of the lives of children in conflict with the law, including children's careers. Career planning is a deliberate process to know and understand ourselves better. Becoming aware of the opportunities, choices and consequences of our choices identifying choices making decisions about choices developing goals and action plans that will keep us moving in the direction we want to go, and programming work, education and related training and development experiences.

The role of the Special Child Development Institution in preparing children's careers is to provide guidance for children who have committed crimes. Based on the previous discussion above, it can be said that children who have committed crimes are also ordinary humans who have instincts as social creatures who also want their social needs to be met. Society can accept them back if they can truly prove that they have truly changed and live their lives normally, therefore children who have committed crimes in the Special Child Development Institution are given education and training to master certain fields so that later after their sentence is over they are

ready to re-enter society and have the skills to find good jobs in society.<sup>1</sup>

The mixing of children with prisoners is also not in accordance with the provisions of Article 3 letter (b) of the SPPA Law. Because the SPPA Law states that every child in the criminal justice process has the right to be separated from adults. And it is not in accordance with Article 17 paragraph (1) letter a of Law Number 23 of 2002 concerning Child Protection (hereinafter referred to as the PA Law) which states that every child whose liberty is deprived has the right to receive humane treatment and their placement is separated from adults. In addition, in the Correctional Law in Article 18 paragraph (1), Article 25 paragraph (1) and Article 32 paragraph (1) it is stated that Correctional Children consisting of Criminal Children, State Children and Civil Children are placed in Juvenile Correctional Institutions.

Problems arise when density occurs in LPKA, as explained above, the era of globalization tends to have a negative impact on the younger generation, thus encouraging them to commit a crime. As a result of the rapid and rapid development of information technology, sooner or later it will renew human behavior and civilization globally, because information technology makes the world limitless. This is used as the main trigger for the emergence of new modes of crime, we can see from various problems that have occurred lately, which use the progress of information technology in the world as its media.

## **B. Research Methods**

A research cannot be said to be research if it does not have a research method.<sup>2</sup> Research methods are one of the factors of a problem that will be discussed.<sup>3</sup> The study was carried out using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are

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<sup>1</sup> Jumi Adela Wardiansyah1, N Nurjannah, “Peran Lembaga Pembinaan Khusus Anak (Lpka) Dalam Pengembangan Karier Anak”, *Jurnal Al-Isyraq: Jurnal Bimbingan, Penyuluhan, dan Konseling Islam*, Vol. 5 No.1 Tahun 2022.

<sup>2</sup> Ismail Koto, “Perlindungan Hukum Terhadap Korban Tindak Pidana Terorisme”, *Proceeding Seminar Nasional Kewirausahaan*, 2.1, (2021): 1052-1059.

<sup>3</sup> Ida Hanifah, Ismail Koto, “Problema Hukum Seputar Tunjangan Hari Raya Di Masa Pandemi COVID-19”, *Jurnal Yuridis* 8.1, (2021): 23-42.

several references originating from the results of research, studies and reviews of several papers which are then summarized into a work of scientific.

### **C. Analysis And Discussion**

#### **1. Guidance for Children in Conflict with the Law in the Correctional System**

The enactment of the SPPA Law has a significant impact on the development of children in the correctional system. One fundamental change is the change in the duration of the development process. Government Regulation Number 31 of 1999 concerning the Development and Guidance of Correctional Inmates Article 17 paragraph (2) states that the development stages for criminal children are divided into 3 (three) stages, namely the initial stage, the advanced stage and the final stage. The development mechanisms and approaches implemented in LPKA are implemented into 3 (three) development patterns in accordance with the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: M.HH-03.OT.02.02 of 2014 concerning Guidelines for the Treatment of Children in BAPAS, LPAS and LPKA which are described as follows:

- a. initial stage coaching, Initial stage of guidance begins when the child is newly accepted at LPKA until 1/3 of the sentence or the time limit determined based on the results of Litmas from Bapas. The initial stage of guidance begins with the registration process consisting of acceptance, registration and placement activities as well as environmental introduction. In this initial stage of guidance, the following steps are taken:
  - 1) Community Research, Community Research must be conducted on every child. Community Research at LPKA is conducted by the Bapas Community Guidance Officer (PK). Community Research is a process of collecting data and information which also includes the results of profiling and assessment conducted by the assessor. The results of the Community Research are recommendations for guidance or treatment for the Child while in LPKA which are then submitted to the Head of

- LPKA. The results of the Community Research are also submitted to the Guardian/caregiver to be studied in preparation for the TPP hearing.
- 2) Assessment, Assessment at LPKA is conducted by an assessor. The assessment results in the form of recommendations are submitted to the Head of LPKA to be submitted to the Community Guidance Officer as an integral part of the Litmas document. The assessment results are also submitted to the Correctional Caretaker to be studied in preparation for the TPP hearing.
  - 3) Program Planning, The preparation of the program plan must consider the priority of the child's needs. If the child is recommended to participate in educational activities and skills development based on the results of the needs assessment and approval, then both can be given, one of which is chosen based on the child's priorities. The child must be endeavored and ensured to receive an educational program by considering the child's willingness and ability to participate in the program. If the child has no interest in the educational program, then the child must be directed to an independence development program. The program planning must include the objectives to be achieved, the types of programs and activities, program needs that are appropriate for the child and the time of program implementation.
  - 4) Correctional Observation Team Meeting, One of the tasks of the TPP in LPKA is to provide advice and considerations to the Head of LPKA regarding the form and program for Children. In carrying out these tasks, the TPP has the function of holding a TPP hearing. Recommendations from the results of previously made program planning must be used as consideration by the TPP to decide on the right program for Children.

- 5) Classification, For the purpose of providing further guidance programs, when the observation and introduction period for the environment has reached 1 (one) month, the child must be moved to their respective rooms. The placement of the child as referred to must pay attention to the recommendations of Litmas which include the results of risk and needs assessments, age classification, gender, detention status, criminal acts, length of detention, repeat criminal acts and citizenship.
- 6) Preparation for Implementation of the Development Program, Based on the results of the TPP trial decision that has been approved by the Head of LPKA, the coaching program for Children is implemented. Things that need to be considered in preparing for the implementation of the coaching program at LPKA are budget readiness, availability of children who will participate in the coaching program, readiness of correctional officers and instructors who have met the competencies and qualifications, the place where the coaching is implemented and the schedule for the implementation of the coaching program.
- 7) Implementation of the Coaching Program, The implementation of the coaching program can be given to each child according to their needs. The Child Coaching Program consists of Personality Coaching, Skills Coaching and Education.
- 8) Reporting of Development Program Results, LPKA officers are required to make a report on the coaching program that has been implemented. This report contains the realization of the implementation of the coaching program based on existing facts. The report is submitted to the Head of LPKA and copied to the Community Guidance Officer for the benefit of the coaching program.
- 9) Evaluation of the Coaching Program, LPKA officers are required to monitor and evaluate the coaching program to determine the

effectiveness of the program implementation on the development of children's behavior. The results of the monitoring and evaluation are included in the program implementation evaluation report. The report as referred to is a compilation of records of the implementation of each program and the results of its evaluation made by the person in charge every month.

10) Supervision of Child Development Programs, Pengawasan program pembinaan dilakukan oleh Wali/pengasuh, pejabat atasan langsung di LPKA dan Pembimbing Kemasyarakatan.

b. Advanced Stage Coaching

- 1) The advanced coaching stage is calculated from  $\frac{1}{3}$  to  $\frac{1}{2}$  of the sentence.
- 2) The calculation of  $\frac{1}{2}$  of the sentence is given as long as the child is still under 18 years old.
- 3) In the case of not reaching  $\frac{1}{3}$  of the sentence but based on the results of PK supervision and community research the child has shown changes in behavior, the student can be given assimilation.
- 4) Advanced coaching and assimilation are carried out through activities to integrate children with family, society and other environments outside the LPKA.
- 5) Assimilation consists of internal assimilation and external assimilation. Internal assimilation is an integration program that involves people from outside to carry out activities inside the LPKA. External assimilation is integrating children by carrying out activities with the community outside the LPKA.
- 6) If assimilation is given in the form of job training, the duration must not exceed 3 hours per day.

- 7) The process of implementing the advanced coaching stage, begins with conducting Litmas, and evaluating the implementation of the initial coaching program stage, then compiling a follow-up program plan, compiling the implementation of the follow-up program (types of programs provided and can be assimilated) and finally compiling an evaluation for the follow-up program.
  - 8) The mechanism for implementing litmas and assessment, planning for the follow-up program, implementing the follow-up program and evaluating the follow-up program refers to the guidelines for compiling litmas and assessment, program planning, implementing the program and evaluating the program at the advanced coaching stage by considering the type and form and objectives of the final stage program.
- c. Final Stage Coaching:
- 1) The final stage of guidance is calculated from 1/2 until the child is free from serving his sentence.
  - 2) The final stage of guidance is carried out by handing over the child to Bapas.
  - 3) If the child meets the reintegration requirements, further guidance (guidance) is handed over to Bapas, if the child does not meet the reintegration requirements, final guidance is carried out at LPKA.
  - 4) The process of implementing the final stage of guidance consists of Litmas activities, by conducting a reassessment based on the evaluation of the advanced stage, then preparing the final stage program plan, preparing the implementation of the final stage program (types of programs provided and can be given reintegration) and finally preparing an evaluation for the advanced program.
  - 5) The mechanism for implementing litmas and assessment, planning the final stage of guidance program, implementing the final stage of



guidance program and evaluating the final stage of guidance program refers to the recommendations of litmas, program planning, program implementation and program evaluation at the final stage of guidance.

- 6) The stages of guidance for children implemented in the guidance pattern described above are analyzed that the guidance of children is a series of deliberate and directed efforts so that Indonesian children from birth can develop into adults who are able and willing to work to achieve and maintain national development goals. Child development in the broad sense includes providing protection, opportunities, guidance, assistance so that Indonesian fetuses develop into Indonesian adults who are willing and able to produce high quality and large volume work in order to achieve the goals of the Indonesian nation.

## **2. Obstacles to the Implementation of Guidance for Children in Conflict with the Law in the Correctional System**

Talking about guidance for children in conflict with the law in the correctional system, it cannot be denied that in carrying out the task, several obstacles can be found in providing guidance, including:

- a. Obstacles in Human Resources, Human resources in this case are LPKA officers in terms of quantity, which is adequate when compared to the number of children there, but the quality is something that needs attention. The reality is that the officers in LPKA are officers who have been transferred and promoted from the Correctional Institution and do not have special skills to handle children's problems, as well as officers who have just been appointed as ASN and whose first assignment is in LPKA.
- b. Obstacles in the Budget Sector, The budget in DIPA, especially for coaching activities, is very minimal. The lack of budget can affect the coaching stage process. Planning, implementation, monitoring and

evaluation activities as well as the termination of coaching activities become ineffective if not supported by the budget.

- c. Obstacles in the field of Facilities and Infrastructure, The placement of children in LPKA will certainly be very vulnerable psychologically, what is needed by a child to be able to follow the guidance properly is comfort. Currently, many LPKA have not been able to fully accommodate these needs. The main concept of the prison which is oriented towards security needs, preventing children from running away has an impact on the form of the LPKA building itself. High fence walls and the presence of bars/trellises in the residential rooms are situations that are vulnerable to children's psychology so that children's interest and enthusiasm for participating in guidance activities are low. Minimizing or even eliminating the impression of the prison in LPKA as a confinement house for criminals is one way. The concept of a more educational and fun building can influence children's psychology to have the enthusiasm to participate in guidance activities.

#### **D. Conclusion**

The guidance system at the Special Child Guidance Institution (LPKA) in accordance with the integration policy aims to provide holistic protection, education, and rehabilitation for children in conflict with the law. Ideally, children receive formal education equivalent to public schools as well as vocational skills training to prepare them to return to society with adequate provisions, in addition to the implementation of the Psychosocial Rehabilitation Program, this program includes individual and group counseling, therapy, and social activities aimed at improving the psychological and social conditions of children. So that children are encouraged to participate in various recreational and sports activities to develop social and physical skills and maintain their mental health. Furthermore, in order to maintain the ethics and morals of children in LPKA, Religious and Moral Guidance is important to do, this program provides religious education and moral guidance to shape the character of children so

that they have a strong moral foundation. Through this integration policy, it is hoped that children can undergo guidance more effectively and can reintegrate well into society, reducing the possibility of them being involved in criminal acts again.

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