

State Responsibility Toward Announced Children In Government Operations In The Field Of Children's rights protection

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Abstract

The idea of good governance has not been institutionalized in the government system, and the government does not have a strong desire to care for abandoned children, which contributes to the lack of realization of the state's responsibility towards neglected children in government operations. In addition, there are other challenges that frequently arise when attempting to defend the rights of Indonesian children, particularly those who have been neglected. These challenges include: the application of law enforcement itself, which pertains to the ability of law enforcement officials; infrastructure and supporting facilities; and the ineffective implementation of certain government programs. Taking into account that the majority of Indonesians still have low levels of economic capacity, that the public, particularly parents, are unaware of children's rights, that relevant agencies and the general public do not understand the provisions of the International Convention on the Rights of the Child, that there is a dearth of coordination between governments and social organizations, and that cross-sectoral and international cooperation is not well established.

Keywords: Government Operations, Children's Rights, Abandoned Children

INTRODUCTION

Every child has the right to live, grow, develop and participate appropriately in accordance with human dignity and protection from violence and discrimination, in accordance with Law Number 23 of 2002 concerning Child Protection as amended and supplemented by the Law of the Republic of Indonesia. Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection in conjunction with Law of the Republic of Indonesia Number 17 of

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2016 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 concerning Second Amendment to Law Number 23 of 2002 Concerning Child Protection Becoming Law.” The sanctions applied to those who commit acts of violence against children are strict measures. In particular, Decree of the President of the Republic of Indonesia Number 36 of 1990 concerning Ratification of Conventions on the Rights of the Child, which requires the state to protect, respect, fulfill, promote and enforce children's rights, has been ratified by Indonesia as a legal state. In fact, there are many children who, as a result of not receiving protection, become disadvantaged or even experience misfortune in their lives. They become abandoned children who turn into street children, beggars, and buskers who often experience physical and psychological violence in an effort to survive, earn money, or wait for the mercy of others. Paradoxically, they never feel protected, and if they do feel protected, it does not live up to their expectations.

Children who are neglected and do not receive attention from their parents are very unfortunate because they will behave inappropriately and do not realize that their activities may violate the law. Child welfare is very important because it provides children with the means of livelihood and living arrangements that can ensure their natural and healthy physical and spiritual development. Lack of attention and responsibility are two factors that cause a child to face legal problems; This is highlighted in the Explanation of Law Number 23 of 2002 concerning Child Protection as amended and supplemented by Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection in conjunction with Law of the Republic of Indonesia Number 17 of 2016 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection.

The number of children with various problems continues to increase every year, according to data from the Indonesian Ministry of Social Affairs' Data and Data Center and the Central Statistics Agency (BPS). 2,250,152 children were abandoned, 189,075 children had problems with the law, and 295 children were disabled in 2008. There were 182,406 children who were victims of violence, 5,201,1452 children who worked, the average age range was 10 to 18 years, and up to 231,894 young people lived on the street. Based on existing statistics, there were 3,488,309 abandoned children in 2009; 1,178,824 abandoned toddlers; 10,322,674 vulnerable children neglected; 193,155 neglected delinquent children; and 367,520 abandoned disabled children.⁵ In contrast to 2010. According to Ministry of Social Affairs figures, as of July, there were 5.4 million



abandoned children throughout the world. Of this number, 3,939,400 are men and 1,467,000 are women. The government's statement that poverty in Indonesia is decreasing is not in line with the increasing number of neglected children.

The problem of child and infant neglect is increasingly widespread. Carelessness or inability of families and/or parents to fulfill their responsibilities by ignoring children's mental and physical needs causes delays, which results in their social, spiritual and physical needs not being met. Apart from that, there are social influences, environmental factors, rapid development, globalization in the field of information and communication, advances in science and technology, and changes in lifestyle. The social changes brought about by all of this will ultimately influence children's behavioral values. When the resources available to families and communities to address social problems are few or non-existent, the problem of neglect becomes more pronounced. In fact, efforts to protect children must be carried out as soon as possible, namely from the time the fetus is in the mother's womb.

The government boldly estimates that the poverty rate will fall to 13.5% in 2010 even though they claim to have succeeded in reducing it to 14.15% in 2009. It makes sense that social welfare will increase if the poverty rate actually decreases. However, it cannot be denied that the problem of abandoned children is a reflection of the reality of a society that does not place top priority on welfare. Therefore, abandoned children are categorized as having social welfare problems by the Ministry of Social Affairs itself (PMKS).

Children need to be protected, according to Arif Gosita, to ensure that they are not harmed either directly or indirectly by the activities of people, groups, the business world or the government. Victims are those who experience harm (emotional, physical, or social) as a direct or indirect result of the passive or active activities of other individuals or organizations (private or public). Apart from that, children are also vulnerable to prejudice and exploitation, especially neglected children. Violence against children has never decreased in Indonesia; on the contrary, the number is always increasing, both in terms of quantity and quality. It is difficult to determine precise statistics because many violent incidents go unreported, especially if they occur at home. Many people believe that because domestic violence is a domestic problem, no one outside the family, not even law enforcement officers, should be involved. Some data taken haphazardly can show how the level of violence against children is increasing in this country. World Vision, which collects statistics in various regions, found 1,891 cases of violence in 2009 compared with just 1,600 cases in 2008. According to a compilation of nine national media, there were 670 reported



incidents of violence against minors in 2009 compared with 555 cases in 2008. Meanwhile, in 2008 and 2009, as many as 580 direct complaints and 595 cases (not including reports via telephone and email) were reported directly to KPAI. P-21 stage and decided by the court.”

Society, both individually and in groups, has a moral obligation to care for neglected children and contribute to efforts to eradicate them as much as possible. The government is not the only party responsible for this problem. However, when considering the government's role as a defender and regulator of community problems, the government has a much greater responsibility and is more careful when it comes to neglected children. Furthermore, the problem of abandoned children is not just a social problem; This is also related to other systemic problems including political will, cultural policies, education, law, economic problems (poverty and how to deal with it), and so on.

RESEARCH METHODS

Because it aims to understand the legal construction of regulations regarding state responsibility for abandoned children in the operationalization of government as mandated by Article 34 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, this research is included in the normative category. legal research. According to Soerjono Soekanto, normative legal research is research conducted using secondary data or library sources. The statutory approach and the conceptual approach are the two approaches used in this research. Research regarding the standards contained in the 1945 Constitution of the Republic of Indonesia, Law Number 4 of 1979 concerning Child Welfare, Law Number 39 of 1999 concerning Human Rights, Law Number 23 of 2002 concerning Child Protection, and Presidential Decree of the Republic of Indonesia Number 36 of 1990 concerning Ratification of the Convention on the Rights of the Child was all carried out using a statutory approach.

To identify the concepts that give rise to legal concepts and legal principles relating to legal issues, the conceptual method deviates from the viewpoints and doctrines that emerge in legal science. Thirteen The legal concept developed in this research is that there is no realization of the state's responsibility towards abandoned children in government operations and its legal implications. The conceptual approach is an approach used to obtain clarity and scientific justification based on legal concepts originating from legal principles." The state's obligation to provide legal protection for abandoned children.

The collected legal materials, both primary, secondary and tertiary, are studied using



theoretical tools and concepts contained in the theoretical framework in order to answer or address the problems being investigated using the "juridical reasoning" and "juridical qualitative analysis" methods. which is labor intensive. In legal reasoning it is necessary to pay attention to three fundamental references: The assumption that the law must have authority in order to (a) achieve positivism; (b) realizing coherence; (c) realizing justice; and (d) recognize that law is the appropriate way to regulate human relations. Before making a decision, the final stage of the investigation is analyzing legal documents. Analysis of legal materials is a very important element in the research process because it can determine the validity of the conclusions to be drawn.

DISCUSSION

Regarding this form of government, the Amendment to the 1945 Constitution succeeded in combining the characteristics of the Presidential system, which progressively strengthened the network that would ensure the stability of government operations. The provision of direct election of the President (and Vice President) by the people is a sign of this. The MPR no longer has authority or responsibility towards the President. Regardless of differences of opinion between the President and the MPR, the President remains in office until his term ends. The "impeachment" process is the only way to remove the President from office while he is still in office. However, the grounds for "impeachment" are narrow in scope and require significant effort to implement. Presidents can only be impeached if they are proven to have violated the law by committing treason against the state, corruption, bribery, or other major violations, or if they stop carrying out their duties as President. Therefore, the networks that ensure the stability of government administration have been regulated quite thoroughly in the Amendment to the 1945 Constitution. One of these networks is the ability to remove the President from office while he is in office through the impeachment process, but this is not an easy task.

As a result, the Indonesian government system has undergone new changes. The aim is to make the previous presidential system better. These additional modifications include bicameral government, direct elections, checks and balance mechanisms, and increased parliamentary authority to carry out budgetary and oversight duties.

The role of the government is to protect its people by enacting laws and regulations, fostering community and national development in all fields, maintaining law and order, and maintaining the unitary state of the Republic of Indonesia by strengthening its security and defense. If the government has good governance, then these government functions will be carried



out.

An effective strategy in dealing with public problems is good governance. It is thought that modern states now require their governments to incorporate the idea of good governance into their operations. The phrase “good government” generally refers to efficient, accurate, and moral management of government by government officials. because of that. Good governance covers all aspects of business, culture and organization. However, more precisely, good governance can be understood as a social, legal and political effort involving the state, society and the market sector. It consists of regulations governing interactions between the public, legislative bodies, courts, and other branches of government regarding matters of government control.

Good government is a government that can be held accountable for all attitudes, behavior and policies made at the political, legal and economic levels. This can also provide an opportunity for the community to carry out supervision (control). If, in the real world, government actions have caused harm to society, then the government must also be willing to accept responsibility for those actions and comply with legal requirements.

Building Good Governance is a necessity for our government system: If the Indonesian nation fails to build government and good governance, then build Indonesia's future which is a form of implementing the goals of the nation and state as stated in the preamble to the 1945 Constitution, namely "protecting the entire Indonesian nation and all of Indonesia's bloodshed as well as advancing general welfare, making the nation's life intelligent, and participating in implementing a world order based on freedom, eternal peace and social justice"—will never be realized.

It can be said that, in theory, the concepts of rule of law and good governance are complementary and have comparable goals. The principles of the supremacy of law must be taken into consideration when implementing good governance. However, on the contrary, the principles of good governance must always be considered and put into practice when implementing the concept of a good rule of law.

It can be seen from the definition and components of good governance that a number of components of its implementation are also prerequisites for a country that upholds the supremacy of law. because everyone in a legal state - both those in power and those ruled - must obey the law, which in this case is a just law that needs to be applied fairly. This outlines the components of good governance related to justice and fairness.

Developing public service delivery that reflects the essential qualities of good governance



is necessary so that Indonesia can achieve good governance. It is quite easy to transfer these qualities (efficiency, openness, accountability, responsibility and responsiveness) to the provision of public services.

One of the most important aspects of good public service governance is responsiveness, which shows an organization's capacity to identify community needs, set priorities and agendas, and create public service initiatives that are aligned with those needs and goals. Therefore, to be an example of good governance, government responsiveness must take into account all of society's interests, including child protection. According to Law Number 23 of 2002 concerning Child Protection, every child has the right to protection.

The following is an explanation of children's rights contained in chapter III of the Protection Law: the right to live, grow, develop and participate; the right to a name as a means of self-identification; the right to worship; the right to know one's parents; the right to health services and social security; right to education; the right to speak and be heard; the right to rest; and the right to legal protection.

The government as one of the state administrators needs to be given appropriate authority and have certain goals and targets so that it can carry out its duties in accordance with state objectives. S.F. Marbun emphasized that the essence of government authority is characterized by clear goals and objectives, is temporal in nature and is limited by written and unwritten legal frameworks. At the same time, the substance can be general (abstract), such as establishing regulations, or it can also be specific, such as deciding whether to approve a plan or permit.

Increasing the effectiveness of supervision, both through supervision of public institutions and the judiciary as well as through the application of good governance principles, is one way to improve government management. The following are several ways in which implementing good governance will help society achieve and experience inner and outer peace: (a) Survival and the implementation of rights do not depend on physical or non-physical strength; (b) People are free to pursue their interests and carry out their beliefs as long as they do not violate the rights of others; and (c) People will feel that they are treated fairly, humanely, fairly and civilized even if they make mistakes.

As the leader of the nation, the government's main responsibility is to promote the welfare of its people. In this framework, the government has the authority and obligation to impose taxes on people based on their respective capacities. However, the government must ensure that every citizen receives basic assistance or a standard of living commensurate with humanity.



Abandoned children usually come from diverse family backgrounds. Some people come from low-income backgrounds, so they grow up surrounded by poverty, abuse, and loss of love, which weighs heavily on their spirits and influences their behavior. The fact that some abandoned children live alone and have no relatives at all is even more heartbreaking.

Due to employment, remarriage, or divorce, some mothers of abandoned children live in different cities from their fathers. There are children living on the streets who never live with their families at all, there are also those who live separately from their families but often visit them. There are even those who live on the streets and don't know their families.

Apart from that, the lives of neglected children are also negatively impacted by the rapid development taking place in urban areas. In fact, urban conditions encourage the number of abandoned children. Children in crowded cities with many dysfunctional families suffer from malnutrition, neglect, low self-esteem, lack of education, and loss of love and warmth of soul. They may also lose the freedom to play, socialize, and live their own lives, or they may even become victims of emotional, physical, or sexual abuse at the hands of older family members, friends, or strangers.

CONCLUSION

The idea of good governance has not been institutionalized in the government system, and the government has not had a strong desire to care for abandoned children, thus contributing to the failure to realize the state's responsibility towards abandoned children in government operations. Apart from that, there are other challenges that often arise in efforts to defend the rights of Indonesian children, especially neglected children. These challenges include: the implementation of law enforcement itself, which is related to the capabilities of law enforcement officers; supporting infrastructure and facilities; and ineffective implementation of certain government programs. Considering that the majority of Indonesian people still have a low level of economic ability, there is a lack of parental knowledge, especially regarding children's rights, as well as a lack of awareness of relevant agencies and the public regarding the provisions of International Conventions. Regarding Children's Rights, cross-sectoral and international collaboration has not been well established, and coordination between social organizations and the government as well as within social organizations is still lacking.



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