

## HANDLING OF PROSINERS ABOVE 18 YEARS OLD IN THE SPECIAL DETENTION CENTER FOR CHILDREN I KUPANG

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### ABSTRACT

The definition of child itself has many meanings, this definition consists of several regulations that applied in Indonesia, including: Article 1 point 1 of Law Number 23 Year 2002 concerning Child Protection for the category of child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb; Law Number 3 of 1997 concerning Juvenile Court, children are categorized as persons in the case of naughty children who are 8 (eight) years old, but have not reached the age of 18 (eighteen) years and have never been married (Article 1 paragraph (1)). Furthermore Article 4 paragraph (1) states that the age limit of bad children who can be submitted to the child's trial is a child of at least 8 (eight) years but has not reached the age of 18 (eighteen) years old and has never been married. The study focused on researching "Handling of Prisoners Above 18 Years Old in Special Development Institution for Children Kupang I". With the formulation of the problem; why 18-year-old Penitentiary Citizens are still fostered at the Kupang I Child Special Detention center?; What is the model for the formation of Penitentiary Guides in Child Special Detention center Kupang I over 18 years old. This research is included in the category of empirical legal research, namely research that emphasizes the application of legal norms in realizing the function of the Kupang I Child Special Custody, especially in the case of Handling Prisoners Who Are Over 18 Years Old at the Kupang I Child Special Development Institution.

*Keywords: children , models of formation , penitentiary guides , special guidance institutions for children*

### INTRODUCTION

Children are gift of God that must be nurtured, protected, and given the best possible protection in order to realize the life for a good child and as the next generation of the nation, where those who will replace the leadership now have a major contribution in building the country in the future.

The definition of child itself has many meanings. This definition consists of several regulations that applied in Indonesia, including: Article 1 point 1 of Law Number 23 Year 2002 concerning Child Protection for the category of child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb; Law Number 3 of 1997 concerning Juvenile Court, children are categorized as persons in the case of naughty children who are 8 (eight) years old, but have not reached the age of 18 (eighteen) years and have

never been married (Article 1 paragraph (1). Furthermore Article 4 paragraph (1) states that the age limit of bad children who can be submitted to the child's trial is a child of at least 8 (eight) years but has not reached the age of 18 (eighteen) years and has never been married.

Attention to children today is not only at the local, regional or national level but has become an international concern. Many international legal instruments provide special protection for children. United Nations regarding children affairs has been ratified by the Indonesian government through Presidential Decree No. 36 of 1990. The convention contains the obligations of countries which ratified it to guarantee the implementation of children's rights.<sup>59</sup> This convention places children as potential human resources for national development.

The rules governing the child trial process are regulated in Law No. 3 of 1997. This rule was born on the basis of the consideration that children are part of the younger generation as one of the human resources which is the potential and successor to the ideals of the nation's struggle, which has a strategic role and has special characteristics, requires guidance and protection in order to guarantee physical, mental, and social growth and development as a whole, in harmony, and in balance. In addition, that to carry out guidance and provide protection to children, support is needed, both concerning institutional and legal instruments that are more stable and adequate, therefore, the provisions regarding the administration of justice for children need to be carried out specifically.

The current condition of children as perpetrators of criminal offenses still places imprisonment as a primary sanction. Referring to the *Institute for Criminal Justice Reform* (ICJR) data for June 2017, it was recorded that 2,559 children who became fostered citizens greater than the number of child convicts in December 2016, totaling 2320 children spread

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<sup>59</sup> Darwan Prints, *Indonesian Children's Law, Bandung* : Citra Aditya Bakti, 2003), page. 5

across 33 regions in Indonesia,<sup>60</sup> Likewise, in the Province of East Nusa Tenggara, the number of child convicts reached 35 (thirty-five) children who took part in the training process at the Special Child Development Institute.

This study focused on the LPKA Kupang I Child Special Development Institution which up to 2019 there were 35 (thirty five) child prisoners in the Kupang I Child Special Development Institute. Problems of handling children inmates in LPKA Kupang have several separate problems, one of them is when a child convict reaches the age of 18 (eighteen) years. In Article 81 paragraph (3) of the SPPA Law, it can be seen that the placement of children sentenced to prison terms in LPKA to be fostered is only up to children aged 18 years. Children who have reached the age of 18 but whose prison term has not yet been completed will be transferred to a youth penitentiary. These provisions are contained in Article 86 of the SPPA Law: (1) Children who have not yet finished their crimes in LPKA and who have reached the age of 18 (eighteen) years are transferred to a youth penitentiary; (2) In the case that the child has reached the age of 21 (twenty one) years, but has not yet completed his criminal offense, the child is transferred to an adult correctional institution by observing the continuity of the child's formation; (3) In the absence of a youth correctional facility, the Head of LPKA may transfer the child referred to in paragraph (1) and paragraph (2) to an adult correctional facility based on recommendations from the Community Guidance. Until now LPKA I Kupang still accommodates 30 (thirty) child convicts who are 18 years old and have not been transferred to the Lapas Pemuda because the Lapas Pemuda is not yet available. This of course raises several separate issues related to the handling model for child prisoners who are 18 years old.

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<sup>60</sup><https://nasional.republika.co.id/berita/nasional/hukum/17/07/21/otfugz-icjr-jotal-t-prison-anak-di-indonesia-meningkat-pesat>

Based on this problem, the researcher is interested in researching about "Handling Prisoners Who Are Aged Over 18 Years at the Special Child Development Institute I Kupang".

### **Problem**

Based on the background above, there are two issues that are the focus of this study, namely:

- 1 Why are 18-year-old Penitentiary Citizens still being scouted at the Kupang I Child Special Coaching Institute?
- 2 What is the model for the formation of Penitentiary Guides in Kupang's Special Child Development Institution I over 18 years old?

### **RESEARCH METHODS**

This research is included in the category of empirical legal research, namely research that emphasizes the application of legal norms in realizing the function of the Kupang I Child Special Development Institute.

### **DISCUSSION**

1. 18-year-old Correctional Guidance Citizens are still fostered at the Kupang I Child Special Assistance Institution

In terms of the effectiveness of implementing the provisions of article 61 paragraph (1) of the Child Protection Act concerning criminal children who have not yet finished their speech at the Kupang Class IIA Penitentiary and have reached the age of 18 (eighteen) years, they are transferred to the Kupang Class IIA Penitentiary. The analysis of regulations is based on the framework of thought of Aan and Robert Seidman known as ROCCIPI (Rule, Opportunity, Capacity, Communication, Interest, Process, and Idiology). This theory explains

the social problems caused by problematic behavior and cause - the cause of the problem behavior is caused by a factor-factor ROCCIPI.

To determine the effectiveness of the implementation of the provisions of article 6 i paragraph (1) Law number 3 of 1997 is norms (Law number 23 of 2002 is blurred or ambiguous), the legal provisions listed in Law number 3 of 1997 are able to resolve problems or give birth new problem; clarity of regulation, funding (source of funds, amount of funds and duration of funding), facilities and facilities to support the implementation of the transfer, and clarity regarding both administrative and criminal sanctions.

Based on the size mentioned , the analysis of the factors rules (Rules) berclasarkan size that the provisions of law Act number 3 of 1997 concerning the protection has not been able to resolve the issue the transfer of children a criminal who has aged. 18 (eight fourteen) years of the . It is based on research paper were carried out as thoroughly against the substance of the article. The study found that in Law number 23 of 2002 does not exist provisions that regulate it substantially on funding either that, includes sources of funding, whether sourced from the state budget (Budget Penclapatan clan Shopping State) or . APED (Budget penclapatan clan Shopping Region) or somber financing other and the amount of funds Berta duration Oangka time) funding every year or the semester or mengaunakan how else to menclukung implementation of the removal of children a criminal manner effectively.

In addition to the Act number 23 of 2003 in the regulation implementation ticlak set is clearly a mechanism or procedure implementation of the removal of children criminal that age , 18 (eight fourteen) years to Lernbaga Correctional Special Kids I Kupang, as well as tid ak clearly d 's definitely means-means that, adequate, the capacity of both quantity and quality.

Other aspects that are very important associated with the effect of execution premises in article. 6 i paragraph (1) of Act number 3 of 1997 is the aspect of the application of

sanctions either sanction of administration or sanctions of criminal. To streamline the implementation of Rights of the Child for the sake of protection of the rights of children who, effectively the Convention on Rights of the Child establishes "the general principle" one of the principles that is best for the child "(best interest of the child), namely that in all actions which involve children done by social welfare institutions, governmental or private, institutions of justice, the institution of government or agency of legislature, then the interests are best for the child hares into main consideration. The basic principle is a deliberate feed of things that are very urgent in to apply for protection against children, especially children who are dealing with the law.

The principle of common interests best for children who are dealing with the law jugs arranged in "The Beijing Rules" Yano , are specifically set tentano administration of justice child has been in details provide guidance approach to minimally by the state over the children - son Yang, dealing with hUkUIn . Value - value best are in "The Beijing Rules" that expected in the adoption by the government through Unclang , - law number 3 of 1997 about the trial of children yanc , in fact, much of the perspective and value - the value of Beijing Rules ya ng promoting the welfare of children and the interests best child offender violations.

In case this should have been the principle interest of best children become the cornerstone in the implementation of the removal of the child criminal who has berUIIIUr 18 ( eight fourteen ) years to the Institute of Corrections Class IIA Kupang. Because of that , if the obligation redeployment not implemented should apply sanctions for breach of the obligation tersebu t . In search Law Act number 3 of 1997 is not in find a provision sort meng set of sanctions for violation of the obligations, as in set in Article 61 paragraph (2) of Act number 3 of 1997 tentant, lack anksi it makes no implementation of the provisions that are effective, which berkonsekuensi protection of the law for child perpetrators of crime is did not happen

2. Model of fostering of prisoners in Kupang's Special Child Development Institute I who are over 18 years old

The effectiveness of the implementation of the development of children a criminal who has been achieving the age of 18 ( eight fourteen ) years to the Institute of Corrections , determined by factors institution implementing or who yan known by the term structure of the hold that the law 's most important da lam implementation of the provisions of Article 6 i Act - Act number 3 of 1997 is the capacity of law enforcement agency capabilities . The capacity and capability of institutions implementing at the Institute of Corrections Children Klas IIA Kupang dILikur dart size - the size of the others:

- a. The level of education Balk education formal or educational special
- b. The quantity or number of employees who, adequate
- c. Recruitment or procurement employee who according to the analysis of the needs of employees, ftin'asionalisasi'abatan for officers correctional ( level of income and income ) employees as a consequence of the office functional .

Table 1. Capacity and level of education of civil servants  
In prisons Children Class IIA Kupang

Level of Education	amount	%
SD-		-
SLIP	1	1.7
SLTA	35	60.3
S.	21	36.2
S2	1	<b>1.7</b>
Amount	58	100

*Source : Primary data that have been in if the*

Table that shows the level of education institutions implementing is not adequate when compared with the tug as principal and function of the institution , Fungs i from the aspect of education penjenjangan almost 50% already follow educational p enjangan (21). Average - a

sense of employee Prison Children Class I Kupang dominated education high school / equivalent .

Model guidance Residents Patronage Correctional Institute Special Coaching Kids I Kupang who are aged over 18 know n also pay attention to **aspects of** interest in ROCCIP. Interests that in referring to is the interest of the best children's criminal , despite the provisions of Article 6 i paragraph (1) determine the removal of the child criminal who was aged 18 ( eight- fourteen ) years to the Institute of Corrections Class IIA kupang but the interests of the best children should be considered primary. Relating denoan terms of this , the result of the study shows that the interests of the child be the cause of a child who has aged 18 ( del apan twelve ) years are not in pind ven as follows

- a. Because process of coaching is in progress , so if in doing the transfer of coaching will be disconnected as education chase package A, B and C.
- b. If you moved the child criminal still require adaptation again den2an linAunglan new , Leman new that could potentially affect the mental and behavior of children criminal 's own
- c. Son criminal susceptible to crimes other or crime that carried by orans4 adults will be followed by a child.
- d. Removal of children criminal is not in doing karma age or long criminal child short.

## CONCLUSION

Based on the description of the discussion in Chapter VI about the Discussion of Research Results, in essence it produces the following conclusions:

The conclusion of this study is in terms of the effectiveness of implementing the provisions of article 61 paragraph (1) of the Child Protection Act concerning criminal children who have not finished their speeches at the Kupang Class IIA Penitentiary and have



reached the age of 18 (eighteen) years transferred to the Correctional Institution Kupang Class IIA. Analysis of regulations based on the framework of thought from Aan and Robert Seidman known as ROCCIPI ( *Rule, Opportunity, Capacity, Communication, Interest, Process, and Idiologist y* ). This theory explains the social problems caused by problematic behavior and cause - the cause of the problem behavior is caused by a factor - a factor ROCCIPI. To determine the effectiveness of the implementation of the provisions of Article 6 paragraph (1) of the -U ndang 3 1997 numbers are norms (Law - Law number 23 of 2002 vague or ambiguous), the legal provisions set forth in Law No. 3 of 1997 was able meyelesalkan problem or childbirth new problem; clarity setting tentan g funding (funding source, volume and duration of the funding), facilities for the removal to support implementation and clarity about Balk sanctions administrative sanction or criminal sanctions. The model for correcting community members aged 18 years and over is to provide character and mental guidance by providing skills training to improve the skills of child prisoners so that when prisoners have returned to the community, they can lead a normal life and especially not become recidivists.

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