

The Role Of The Community Center (BAPAS) In The Accompanying And Supervision Of Children Performing Crimes Of Sexual Abuse (Regarding The Decision Of The Madiun Regency District Court Case Number 6/Pid.Sus Anak/2019/PN.Mjy)

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Abstract

Children are the young generation and the foundation of the nation's hopes. Children are the successors of the ideals of the nation's struggle who have a strategic role and have special characteristics and traits that are expected to ensure the continued existence of the nation and state in the future. In the Indonesian Constitution, children have a strategic role which is explicitly stated that the state guarantees every child's right to survival, growth and development as well as protection from violence and discrimination. Children are not miniature adults, so based on the characteristics and characteristics of children, it is necessary to differentiate treatment. This is intended to better protect and protect children so they can face their future. Apart from that, the treatment of children must really be paid attention to and treated carefully and conceptually so that the potential inherent in children can grow and develop well and in balance. Children are subjects who have feelings, thoughts, desires and self-esteem. They must be given the opportunity to be heard and have their opinions respected in matters concerning their interests. The rapid development of the world is nothing but the result of the development of human thought, both providing positive and negative impacts. The mentality of children who are still in the stage of finding their identity is sometimes easily influenced by the situation and environmental conditions around them. So if the environment where the child is in is bad, they can be influenced by actions that may violate the law. Not a few of these actions ultimately got them into trouble with law enforcement officials.

Keywords: *Community Center; Bapas; Children; Sexual Abuse;*

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Introduction

Children are the young generation and the foundation of the nation's hopes. Children are the successors of the ideals of the nation's struggle who have a strategic role and have special characteristics and traits that are expected to ensure the continued existence of the nation and state in the future. Children need to have the widest possible opportunities to grow and develop optimally, both physically, mentally and socially, and have noble morals. Children are an inseparable part of human survival and the sustainability of a nation and state. In the Indonesian Constitution, children have a strategic role which is explicitly stated that the state guarantees every child's right to survival, growth and development as well as protection from violence and discrimination.

Children are not miniature adults, so based on the characteristics and traits of children, it is necessary to determine different treatments. This is intended to better protect and protect children so they can face their future. With all the potential they have, it is not impossible that today's children will play a role in increasing the rate of national

development in the future. For the continued growth of children, both mentally and physically, through interaction in society, children must really receive special attention. Apart from that, the treatment of children must really be paid attention to and treated carefully and conceptually so that the potential inherent in children can grow and develop well and in balance.

Children are subjects who have feelings, thoughts, desires and self-esteem. They must be given the opportunity to be heard and have their opinions respected in matters concerning their interests. The rapid development of the world is nothing but the result of the development of human thought, both providing positive and negative impacts. The mental state of children who are still in the stage of searching for their identity are sometimes easily influenced by the situation and environmental conditions around them. So if the environment where the child is in is bad, they can be influenced by actions that may violate the law. This of course can be detrimental to himself and society. Not a few of these actions ultimately got them into trouble with law enforcement officials.

In this regard, it is known that there is a case where children who commit criminal acts of sexual harassment can be categorized as children in conflict with the law, because their behavior can be categorized as a violation of applicable legal, social and norms. They have even committed sexual crimes, if accompanied by other criminal acts such as murder of the victim.

Sexual crimes committed by children are not necessarily entirely due to the child's own wishes. Forms that can be categorized as sexual crimes include cases of harassment, sodomy, sexual immorality, and even rape of underage children. Ideally, crimes committed by children can be referred to as children who have made a mistake, not as a criminal, but as a mistake in acting which actually requires rehabilitation, not imprisonment. Children need legal and social protection.

So in this case children who are in conflict with the law need to receive special treatment which is guaranteed in national and international human rights legal instruments. Preferential treatment is outlined in the Principles of Juvenile Court in the United States. As noted by Green Wood, among others:

1. Uphold the principle of presumption of innocence, by stating that violations of the law committed by a child are not a crime but rather delinquent behavior which is a manifestation of a child's inability to take responsibility;
2. Placement of children in institutions is not as punishment but to receive guidance and resocialization while adults are sentenced;
3. The trial process for children is closed, meaning that it is only known to the family and the parties involved in the trial, while for adults the trial is open to the public;
4. In juvenile justice there is a social worker who makes recommendations to the judge regarding placement;
5. The training period for children in institutions is shorter than for adults;
6. It is demanded that there be separation between delinquent perpetrators and adult offenders both during the judicial process and serving sentences;
7. When handling delinquency cases, they must be decided more quickly than adult cases and the disposition or assignment of judges must be varied.

From the explanation that has been presented, the author wants to know the role of the Madiun Correctional Center (*BAPAS*) as an institution that has the authority to accompany and supervise children who have committed criminal acts in case number 6/Pid.Sus Anak/2019/PN.Mjy on behalf of the defendant Anwar Daroini previously the defendant was a Child in Conflict with the Law (*ABH*) who was accompanied by Bambang Eko Nugroho, S.H., M.H., CLA., CMC. In the course of the litigation, it is known that the defendant is the child who committed the third crime in a case of sexual abuse of minor

victims. On this basis, the author wants to know the actions taken by the Madiun Correctional Center (*BAPAS*) in rehabilitating and guiding defendants as children who are in conflict with the law in the context of the best interests of children through strengthening their institutions. So the author wants to conduct legal research entitled, "The Role of the Correctional Center (*BAPAS*) in the Assistance and Supervision of Children Perpetrating the Crime of Sexual Harassment Regarding the Decision of the Madiun Regency District Court Case Number 6/Pid.Sus Anak/2019/PN.Mjy".

Research Methods

This research is a type of field research, namely research carried out in real life. This research generally aims to solve practical problems in everyday life. In this research the author uses a qualitative approach, namely a research procedure that produces descriptive data in the form of written or spoken words and observable behavior. A qualitative approach is a research procedure that places greater emphasis on the process aspect of an action seen as a whole. Where the research process is carried out using the survey method, which is limited to research where data is collected from samples to represent the entire object. In this research, the author understands the phenomenon that occurs in the field, namely at the Madiun Correctional Center (*BAPAS*) regarding the assistance and supervision of children who commit criminal acts of sexual harassment.

Results And Discussion

The Correctional Center (*BAPAS*) functions as a correctional technical implementation unit which carries out the duties and functions of social research, guidance, supervision and mentoring. With this, it makes it easier for children in conflict with the law (*ABH*) to assist in the legal process, so that children are not afraid to face the legal process. In connection with this, when imposing criminal sanctions on children who are in conflict with the law, including children who commit criminal acts of sexual abuse, judges are obliged to pay attention to the needs of the child, especially their rights as a child.

Then according to article 1 number 4 of Law Number 12 of 1995 concerning Corrections, "The Correctional Center (*BAPAS*) is an institution for carrying out guidance for correctional clients", however with the existence of Law Number 3 of 1997 the task of the Correctional Center is not only limited to carrying out guidance but also provides assistance to children with problems. Therefore, the author has his own understanding of the Correctional Center, namely as an organizational unit under the Ministry of Law and Human Rights which carries out the task of mentoring correctional clients and assisting children who have problems with the law.

In this regard, the Juvenile Criminal Justice System Law defines minors as children who are 12 years old but not yet 18 years old, and differentiates children involved in a criminal act into 3 categories, namely children who are perpetrators of criminal acts. (Article 1 number 3 of the *SPPA* Law), children who are victims of criminal acts or child victims (Article 1 number 4 of the *SPPA* Law) and children who are witnesses to criminal acts or child witnesses (Article 1 number 5 of the *SPPA* Law). Previously, the Juvenile Justice Law did not differentiate between the categories of child victims and child witnesses. As a consequence, child victims and child witnesses do not receive legal protection. This results in many criminal acts going unsolved or even unreported because children tend to be afraid of facing the criminal justice system.

Then, based on Article 2 of the Decree of the Minister of Justice of the Republic of Indonesia Number M.02-PR.07.03 of 1987 concerning the Organization and Work Procedures of the Bispa Center, the Correctional Center (*BAPAS*) is tasked with: "providing community guidance and alleviation of children in accordance with applicable laws and

regulations". Following this, the implementation of Article 2 is also explained in Article 3 point a which states that the *BISPA* Center has the function of carrying out social research for judicial materials. In this case, the author believes that in connection with social research, the Center for Corrections (*BAPAS*) can research more deeply into the ins and outs of the defendant's background, as well as his psychology, which makes it possible for the Center for Corrections (*BAPAS*) to recommend the best decision before the law, and can provide guidance regarding job training for child defendants who have committed criminal acts so that it is hoped that the child's behavior will change for the better.

Then, in connection with the presence of Covid-19, as a result, a circular was issued on the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-19.PK.01.04.04 of 2020 concerning the Expulsion and Release of Prisoners and Children through Assimilation and Integration in the context of Prevention and Handling the Spread of COVID-19 which states that guidance and supervision reports are carried out online. This is in accordance with what was done by the Madiun Correctional Center (*BAPAS*) where the defendant Anwar Daroini was undergoing the assimilation process. The Correctional Center (*BAPAS*) continued to monitor his supervision through an online process, but experienced problems when the defendant could not be contacted. So in connection with this, the author believes that it is better to carry out regular checks by coming to the defendant's house to ensure that the defendant does not leave the house or do the same thing as before. However, it is somewhat understandable that with the presence of Covid-19, the Correctional Center (*BAPAS*) cannot visit the defendant's house or carry out maximum supervision.

Apart from the supervision of the Correctional Center (*BAPAS*) itself, the parties who play the most important role in protecting and supervising children who are perpetrators of criminal sexual abuse are parents. Parents have an obligation to educate, supervise, provide full understanding and love so that children do not look for love in the external environment so that there is a misuse of what is called "love". So when this abuse has occurred, apart from the main duties and functions of the Correctional Center (*BAPAS*) itself, parents are obliged to provide guidance and supervision to the child so that it is hoped that there will be a change in the child's behavior for the better so that there is no repetition of the same bad behavior as before.

Regarding the criminal case of sexual harassment, Case Number 6/Pid.Sus Anak/2019/PN.Mjy in the name of the defendant Anwar Daroini, the author believes that in fact the perpetrator can also be said to be a victim, because he is not the only perpetrator who has been reported by the woman as the child victim of the perpetrator of the criminal act of sexual harassment. Considering that the woman is the child of the victim, she had previously succeeded in reporting two perpetrators of sexual harassment against her in different periods of time with the same case, namely sexual harassment with her own boyfriend, which they carried out on the basis of mutual consent, which was repeated three times with different perpetrators. at different times too.

From this it can be understood that in fact the defendant cannot be fully blamed for this act, but the dilemma is that here the female victim is still a minor and is automatically given her own legal umbrella by the Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia Law Number 1 In 2015, apart from receiving protection under Law Number 23 of 2002 concerning Child Protection. With this, it is often only men who are cornered who are the perpetrators. However, if we investigate further, the female victim could also be at fault. So this is still a problem where the law is only used as a written legal umbrella to address real problems which sometimes cannot be implemented in practice. This is the homework for parents to jointly guide their children, both perpetrators and child

victims of criminal acts of sexual harassment, regarding parental negligence in their supervision.

Conclusion

From research on the role of the Correctional Center (*BAPAS*) towards children who have committed criminal acts of sexual harassment, it can be concluded that the Correctional Center (*BAPAS*) has the authority to carry out supervision and monitoring of foster parents or social agencies and parents or guardians so that their obligations as caregivers can be fulfilled. fulfilled. So it is clear that in terms of handling the child defendant on behalf of Anwar Daroini, the Correctional Center (*BAPAS*) plays a role in mentoring, advocacy, community research, mentoring, and providing advisors/suggestions. Where the Correctional Center (*BAPAS*) tries to provide the best recommendations for children who have committed crimes with the aim of changing their behavior for the better, as well as accompanying the defendant through the legal process properly. In the end, the Correctional Center (*BAPAS*) must continue to accompany and supervise the assimilation process of the defendant Anwar Daroini by continuing to communicate online with the defendant for monitoring so that the child does not commit bad acts again and does not leave the house because the assimilation process is still ongoing. So the Correctional Center (*BAPAS*) here is more of an administrative institution that facilitates inmates who are almost free, and the development of criminal children. Correctional Centers (*BAPAS*) are encouraged to more intensively carry out Community Research that explores the background of the lives of Community Assisted Residents.

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