

## **DEVELOPMENT OF CHILD CONVICTS PERPETRATING THE CRIME OF SEXUAL INTERCOURSE (Study at the Special Development Institution for Class IIA Children, Bengkulu City)**

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### ARTICLE INFO

### ABSTRACT

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***Keywords:***

Coaching institute, child,  
perpetrator, criminal act

DOI. 10.36085/jsi.v2i1.6425

Children who are in conflict with the law and have received a guilty verdict by a judge will then undergo guidance at the Special Children's Development Institute or LPKA for short. This also includes children who are in conflict with the law in cases of sexual intercourse or molestation. This study focuses on how to provide guidance and the role of LPKA Class II A of Bengkulu City in providing guidance to assisted children who have been found guilty of immoral cases. The research method uses empirical. By conducting Focus Group Discussions involving assisted children and LPKA officers. Based on the research results, data was obtained that there is no special approach or guidance regarding assisted children who are involved in immorality. Guidance is carried out in the same way as children in other cases through personality development and independence through various positive activities.

## INTRODUCTION

### 1.1. Background

Unlawful behavior by children is caused by various factors, including the negative impact of rapid development, the flow of globalization in the fields of communication and information, advances in science and technology. Another factor is that children who lack or do not receive loving guidance, guidance in developing attitudes and behavior, self-adjustment and supervision from parents, guardians or foster parents will cause children to be easily drawn into unhealthy relationships. One of the unlawful behaviors committed by children is the crime of sexual intercourse.

Sexual intercourse is a crime of morality and is contrary to religious morals. The crime of sexual intercourse by a child is an act that is detrimental to both oneself and others who are victims. Children as criminal perpetrators have different motives from adult criminal perpetrators, the child's behavior is influenced by unstable emotions in mental and physical development.<sup>1</sup>

Criminal law in Indonesia is a very important guideline in realizing justice. In criminal law, the term prisoner is very familiar. Based on Article 1, part 7 of Law Number 12 of 1995 concerning Corrections, prisoners are convicts who are serving a sentence of loss of liberty in prison. Basically, prisoners really need good guidance and direction from correctional institution officers, in this case child prisoners.

In the Government Regulation of the Republic of Indonesia Number 31 of 1999 concerning the Development and Guidance of Correctional Inmates, it is stated that Guidance is an activity to improve the quality of devotion to God Almighty, intellectual, attitude and behavior, profesional, physical and spiritual health prison inmates and correctional students. This means, in the process of coaching, guidance and education carried out by authorized institutions, of course it must be based on Pancasila and the provisions of the applicable laws and regulations, with the aim that after this coaching, guidance and education is carried out, correctional students can return to society well. useful provisions and knowledge.

The Special Children's Development Institution or what is abbreviated as LPKA (*Lembaga Pembinaan Khusus Anak*) is an institution or place where children serve their criminal term. In another sense, it is to develop correctional students based on a coaching system, which aims to realize integrative punishment, namely fostering and restoring the unity of good community life. Guidance institutions carry out rehabilitation, reduction, resociation and good protection for students in the implementation of the correctional system. The coaching pattern as regulated in Law Number 12 of 1995 and Government Regulation

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<sup>1</sup> I Nyoman Arya Wira Temaja, 'Sanksi Pidana Terhadap Anak Pelaku Tindakan Pidana Persetubuhan Anak (Di Wilayah Pengadilan Negeri Denpasar)', *Kertha Wicara*, 2018, 3.

Number 31 of 1999 aims to improve the quality of devotion to God Almighty, intellectual, professional attitudes and behavior, physical and spiritual health of correctional students so that these students will realize their mistakes, improve themselves and not repeat criminal acts so that they can be accepted again by society, can actively play a role in development and can live normally as good and responsible citizens<sup>2</sup>.

The Special Child Development Institution applies Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) as its regulation in the process of developing correctional students. The coaching carried out is based on personality development, independence development, education and job training which of course is expected to be able to change students' bad behavior, be able to improve themselves and not repeat criminal acts they have committed.

In the existing laws and regulations, children who have problems with the law are placed in a special place, to be trained internally Special Children's Development Institute. This institution is considered to be able to provide guidance because the main aim of correctional services is to prevent perpetrators from repeating their actions. To carry out the development process for correctional students in particular, the role of these institutions, the government, law enforcement officials and the community is very necessary. It turns out that these roles are very important in order to determine whether or not the guidance of correctional students is successful, this aims to avoid disturbing the child's psychology and mental development when they have finished undergoing the legal process, this is what needs to be underlined of course, because according to the law In Indonesia's Child Protection Law, children must be treated differently from adults when dealing with the law. So, officers at the institution or those in authority must patiently provide appropriate guidance and learning for child prisoners.

The urgency of this research raises a problem that is currently occurring in the city of Bengkulu throughout 2023. Based on data obtained, the percentage increase in the scale of children as perpetrators of criminal acts of sexual violence has increased, which is the focus of researchers to help find answers to existing problems and guidance. such as what exists in this special children's development institution, which will later be followed up regarding this problem. The number of child convicts who have committed crimes of sexual violence can be seen from the 2023 Bengkulu Supreme Court decision directory website, where the convicts are being held in special child development institutions..

## 1.2. Research Methods

Law is the object in carrying out this research.i. Empirical legal research

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<sup>2</sup> 'Penjelasan Umum Dari Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak, Pasal 2 Huruf (G)'.

methods are oriented to primary data (results of research in the field). Empirical legal research is an approach carried out by field research by looking at and observing what happens in the field, the application of these regulations in practice in society, data collection was taken based on court decisions, interviews and documentation. The process carried out is by checking and researching the data that has been obtained to ensure whether the data can be accounted for in accordance with reality

## **RESULT AND DISCUSSION**

### **Guiding child prisoners as perpetrators of criminal acts of sexual intercourse**

The urgency of legal protection for children in their position as perpetrators of criminal acts can be known if children are understood. Understanding children's wishes requires understanding the nature of children which includes several aspects, namely the development of children's personalities, responsibilities towards children as the younger generation, children's rights and the factors that cause children to violate the law.

In developmental psychology it is often discussed that a person's personality is formed during childhood. Children mean the young generation of the nation's hope. When the time comes, the younger generation will replace the older generation in continuing the life of the country. They will later choose the welfare of the nation in the future. Therefore, the younger generation needs to be trained well so that they do not take the wrong path in life in the future. They are expected to be able to carry out activities that can improve their abilities and skills and benefit society. With this background of thinking, according to the regulations, a child has been given exclusive rights and obligations. These rights are regulated circulating in various forms of legislation, not only in national regulations that children have rights and obligations, but also in international regulations.

Protection rules for children are criminal offenses under national law, apart from being regulated in Law Number 11 of 2012 regarding the child criminal justice system, it is also regulated in several other laws, namely Law Number 39 of 1999 concerning Human Rights and Laws number 35 of 2014 regarding child protection. The protection of the rules for children aims to protect the rights of children who have violated the rules due to factors that cannot be separated from our role as adults.

After knowing the development of children and the factors that cause children to commit criminal acts, we understand that there is a gap between children and adults, as a result of which a child cannot be scrutinized or treated the same as

ordinary people.

As for the forms of training at the Special Children's Development Institute (LPKA), children who, based on a court decision, are sentenced to imprisonment are placed in special children's training, the children as intended have the right to receive services, care, education and training, guidance and support as well as other rights in accordance with the provisions of the legislation.

In the way of coaching children, there are coaching events that are carried out synchronously using the development of children who are in special coaching institutions for children. The method for coaching is as follows. Personality training stage, skills development and education, namely personality development consisting of spiritual development activities, legal and physical enlightenment, national and state awareness and other activities, skills training consisting of carpentry training activities, arts and metal technology (IT), and other activities, children's education held at the Class II A Special Development Institute for Children in Bengkulu City consists of formal and non-formal education. Formal education consists of 9 years of education (elementary school, junior high school, high school), while non-formal education includes pursuing package A for elementary school level, package B for middle school level and package C for high school level.

Facilities at special children's development institutions. The LPKA room needs to be designed as a space that does not interfere with the child's growth and development and allows children to have access to meet family, LPKA officers, and companions (legal, psychological, spiritual). Spatial planning must also be safe so as to protect LPKA children who become victims and perpetrators of violence. Special Child Development Institutions are obliged to be able to protect the safety of children as a form of anticipating the possibility of mass outrage or revenge carried out by the victim, friends, the victim's family and violence from fellow prisoners, as well as ensuring that children are no longer perpetrators of violence, both against others and against themselves.<sup>3</sup>

Initial coaching, namely training for students that is carried out comprehensively. This is so that the interests of children and permanent attention to children can be fulfilled properly. Non-formal education is aimed at students of the Special Development Institute for Class IIA Children in Bengkulu City to hone their talents and skills so that they have provisions after returning to society. All activities included in non-formal education must be participated in by students at the Special Development Institute for Class II A Children in Bengkulu City.

Individual or individual coaching, the training carried out basically aims to convey to students skills that can be used as provisions when the students have

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<sup>3</sup> Prasada, E. A. (2022). Perlindungan Hukum Terhadap hak dan kewajiban anak di Indonesia. *Jurnal Kepastian Hukum dan Keadilan*, 4(1), 45-54.

finished serving their sentences in prison. With the training program that has been held for students, it has resulted in an obligation for the students to carry out and participate in the training event. The training program intended for students was followed and students at the Class IIA Prison in Bengkulu City. Another form of development aimed specifically at the recovery of perpetrators and their mental health is child training which is carried out individually. This training is very crucial because there are various types of students in prison, the nature of the students' origins which of course requires different training, especially training aimed at improving the students themselves.

It is very important that the urgency of legal protection for children in their position as perpetrators of criminal acts can be known if it concerns the psychology of children. Regarding children becoming perpetrators of criminal acts, you must understand the term about the nature of a child which includes several aspects such as the development of a child's personality, responsibility towards children as the younger generation, children's rights, factors that cause children to commit violations of the law, namely there are two forms of guidance towards children as perpetrators of criminal acts, such as general guidance and individual guidance. This initial training is an activity carried out comprehensively for children to become perpetrators of criminal acts, namely in the form of formal education in the form of equalization schools or packages and non-formal education in the form of honing creativity or talent, while individual training places more emphasis on children's psychological development which is similar to counseling guidance and religious training. . The forms of coaching that are carried out are efforts to produce better children, so that they can be accepted back by the people and so that their education continues for a better future.

The factors that motivate children to commit criminal acts are:

First, the prisoner's psychological development factor is the child's development which is influenced by interactions between the child and various surrounding environments. Children who are involved in legal matters will certainly interact with a very unique environment.

Second, the education factor, the rights of illegal children to education are very dangerous for the future of a country, once they come into contact with law enforcement, children are at risk of being deported even though they have not been proven guilty, cases reported and monitored by the Indonesian Child Protection Committee show that the majority of children who violate the law are expelled from school, even before the national exam, including children who violate the law who have the status of victims. Only a small number of children who break the law still have the opportunity to continue attending school.

Third, economic factors, the victim's economic factors are one of the factors behind the perpetrator committing sexual intercourse. The family's economic situation cannot achieve several things that children want. Perpetrators of

sexual intercourse look for families with a low economic level.

Fourth, technological development factors not only have positive impacts but can also have negative impacts. The negative impact of absorbing too much technological progress can be misused by children and adults. The worse the impact of globalization on technological development, the higher the level of criminal behavior caused by this technology, such as sexual crimes.

Fifth, lack of attention from parents towards children. Parental attention and affection play the most important role in a child's growth and development. Parents' lack of concern for their children can cause children to become victims or perpetrators of sexual abuse, especially as parents live in areas with low economic conditions and prioritize fulfilling life's needs and focusing on work rather than supervising children, so this opportunity can become an opportunity for perpetrators of violence. to gain access to the child.

According to article 3 of Law number 11 of 2012, every child involved in criminal proceedings has the right to, be treated humanely by taking into account age-specific needs, separation from adults, compared to effectively accessing legal aid and other assistance, participating in recreational activities , free from torture, punishment or cruel, inhuman or degrading treatment of other people, not be sentenced to death or life imprisonment, may not be arrested, detained or imprisoned, except as a last resort and for the shortest possible time, to achieve justice in objective and impartial juvenile court in a closed manner, identity not revealed, getting help from the child's parents/guardians and trusted people, getting social protection, getting a private life, achieving accessibility, especially for children with disabilities, getting education, getting health services, and is entitled to other rights determined by law.

Furthermore, in this case there are principles in Article 5 of Law Number 12 of 1995 as amended in Law No. 22 of 2022 concerning corrections, "which is a strong reference for the implementation of guidance for children who commit criminal acts, especially the principle of protection and its explanation that the treatment of children in correctional facilities is how to organize their lives so that they become useful citizens of society

## CONCLUSION

When children violate the law, many things will affect their current and future lives, such as their psychological development and future education. The next factor is the government factor, in this case the government is involved in implementing the development of correctional institutions, especially the ministry of law and human rights. In addition, to protect children's psychological mental health, children must be separated from adults detained in correctional institutions. This is an allusion to the importance of planning and building special facilities for children's growth and

development. Children are not influenced by the attitudes and behavior of adult inmates who are in the same environment as correctional institutions.

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