


The Role of The Correctional Center Class II Merauke in Handling Children in Conflict with The Law

Gusti Ayu Utami¹, Andi Ervin Novara Jaya²

^{1,2} Faculty of Law, Universitas Musamus, Merauke, Indonesia.

 : gustiayu@unmus.ac.id
Corresponding Author*



Abstract

Handling Children in Conflict with the Law (ABH) cannot be done like adults. Through its role, the Correctional Center (BAPAS) plays an essential role in the judicial process of ABH, following applicable laws and regulations. This paper will present the implementation of the role of Bapas in understanding, appreciating, and carrying out all the mandates contained in the SPPA Law because, with the SPPA Law, there are many changes in the system, mechanisms, and procedures for Bapas in carrying out their duties and functions in handling ABH. The purpose of this study was to determine the role of Bapas class II Merauke in the settlement of criminal cases by children and the obstacles faced by Bapas class II Merauke in the settlement of criminal cases by children. The method used in this study is a juridical-empirical research method whose writing nature is descriptive with a qualitative approach to observe behavior, actions, social environment, and other aspects related to the implementation of the role of Bapas Class II Merauke at each stage in the judicial process undertaken by ABH, namely at the stage in the judicial process conducted by ABH, namely at the pre-court stage (post-adjudication), court stage (adjudication), and post-court stage (post-adjudication). The results showed that Bapas has obstacles in resolving criminal cases by children, among others: Large working area, lack of coordination among law enforcement officers, lack of quantity of human resources in Correctional Center Class II Merauke, lack of adequate facilities and infrastructure, families of juvenile clients who are not cooperative with Bapas officers, absence of LPKA and LPAS budget allocation and very minimal funds. Nevertheless, the function of Bapas in handling ABH can be carried out according to the stages set. Following the legislation, Bapas Class II Merauke can function as an institution that handles ABH differently from how adults are handled.

Keywords: Role; Correctional Center; Handling; Children Against the Law.

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INTRODUCTION

Children are the nation's next generation and the successors of sustainable development and the future controllers of a country, and Indonesia is no exception.¹ According to Article 1 Paragraph (3) of Law Number 11 of 2012 concerning the Child Criminal Justice System, referred to as the SPPA Law, "Children in conflict with the law, in the future referred to as Children, are children who have reached the age of 12 (twelve) years, but not yet 18 (eighteen) years old who are suspected of committing a criminal offense"¹.

The storage of unlawful behavior committed by children causes children to have to deal with the law due to various factors. Among other things, the negative impact of rapid development, anus globalization in the field of communication and information, advances in IP IEK, and lifestyle changes have brought fundamental social changes in people's lives.

¹ Belyana Shanty, *Wanita Dan Anak Di Mata Hukum* (Jakarta: Liberty, 1995).

So, it dramatically affects the values and behavior of children. Besides that, children who lack or do not get the guidance of affection, guidance in the development of attitudes and behavior, adjustment, and supervision from parents, guardians, or foster parents will cause children to be easily dragged into unhealthy associations. So that it will be detrimental to their personal development. It can even open up opportunities for children to commit criminal offenses. All of these factors are bringing fundamental social changes in people's

lives and will significantly affect the behavior or behavior of the child². The existence of such children in the community does need protection, especially children in conflict with the law, because, in essence, children cannot protect themselves from various kinds of actions that cause mental, physical, and social harm. Children must be protected by individuals, groups, social organizations, and the government. Especially by Bapas, which has an essential role in the welfare of children and the future of children from various misapplications of the law against children who face problems with the law, especially in resolving criminal cases by children³. Bapas is an intermediary that carries out community research, guidance, supervision, and assistance to children inside and outside the criminal justice process⁴. Article 63 to Article 68 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. (SPPA Law) regulates Correctional Officers, which consist of community counselors, professional social workers, and social welfare workers. Community Guidance is a functional law enforcement official who conducts community research. Guidance, supervision, and assistance to children inside and outside the criminal justice process.

METHODS OF THE RESEARCH

The juridical-empirical research method with descriptive writing was used to study the role of the Correctional Center (BAPAS) in handling children dealing with the law (ABH)⁵, which aims to describe or describe matters relating to the role of the Correctional Center in resolving criminal cases by children at the Correctional Center Class II Merauke. The data sources of this research are primary data collected based on the knowledge and experience of PK BAPAS Class II Merauke officers in carrying out their duties to assist ABH and secondary data in the form of primary, secondary, and tertiary legal materials. Primary data is collected through interviews and discussions with officials and Community Supervision officers, while secondary data is collected through literature studies. Data analysis techniques are carried out descriptively and qualitatively. Then, conclusions are drawn using the deductive method, namely drawing general facts or conclusions to be used as general facts or findings that are specific⁶ to provide clear answers to the problems and objectives of the paper.

RESULTS AND DISCUSSION

A. Implementation of Class II Merauke Correctional Center in Handling Children in Conflict with the Law

² Shanti Beliyana, *Wanita Dan Anak Di Mao Hukum* (Jakarta: Liberty, 1995).

³ Usai Humaidi, *Peran Pembimbing Kemasyarakatan Dalam Proses Penyelesaian Perkara Anak* (Mataram: Fakultas Hukum Matarim, 2012).

⁴ "Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak," 2012.

⁵ Soekanto Soerjono, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 1984).

⁶ Soerjono.

Along with the development of respect, protection, and fulfillment of human rights, there has been a paradigm shift in the treatment of law violators. Initially, the retributive justice paradigm was more about coloring the state administrators to punish them for revenge. However, it has shifted to the restorative justice paradigm, prioritizing efforts to solve problems with a spirit of recovery without retaliation.

It is also the case with handling children in conflict with the law (ABH) in Indonesia. Law No. 3 of 1997 on Juvenile Courts, enough to astonish conservative law enforcement officials with its leaps of progress, was replaced by Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA) on July 30, 2012. The scope of this law is to regulate the entire process of resolving cases of children in conflict with the law (ABH), from the investigation stage to the guidance stage (after serving a sentence). However, the general criminal procedure law provisions continue to apply if they do not conflict with this law. Handling children in conflict with the law and adults in conflict with the law cannot be equated because both have different justice systems. Children still need the help of adults to fulfill their needs, determine their choices, and get their rights.

To fulfill their rights, children (in this case, including ABH), the nation's next generation, need special protection to maintain their dignity so that their growth and development will occur naturally and follow expectations. At the same time, Law 3 of 1997 has not fully accommodated this. Compared to Law No. 3 of 1997 on Juvenile Courts, the changes stipulated in Law No. 11 of 2012 on SPPA include: 1) The philosophy of the juvenile criminal justice system has shifted from retributive justice to restorative justice; 2) Changes to the age of juvenile criminal responsibility; 3) Elimination of the categories of criminal children, state children, and civilian children; 4) The scope of regulation of child perpetrators, child victims, and child witnesses; 5) Strengthening the role of Community Counselors (PK); 6) Diversion and restorative justice arrangements; 7) Affirmation of children's rights in the judicial process, including the obligation to obtain legal aid; 8) Placement of children in Temporary Child Placement Institutions (LPAS), Social Welfare Organizations (LPKS), and Child Special Development Institutions (LPKA); 9) Limitation of juvenile detention period; 10) Deprivation of liberty must be a measure of the last resort, which means that both detention and imprisonment for juveniles are the last resort after the alternatives to detention or imprisonment are no longer available; 11) Measures and criminal sanctions.

The Correctional Center has a central role in the juvenile criminal justice process, from the investigation stage (Pre-Adjudication), examination at the court session (Adjudication), and implementation of the judge's decision (post-adjudication) as well as its duties and functions, namely preparing community research reports (Litmas), mentoring, guiding, and supervising children⁷. The tasks regulated in the SPPA Law include the following: 1) Make Litmas to implement diversion; 2) Provide assistance, guidance, and supervision to the child during the diversion process and the implementation of the agreement, including reporting to the court if the diversion cannot be implemented; 3) Prepare Litmas for investigation, prosecution, and trial in juvenile cases; 4) Determine the treatment program for children in prison and the development of children in LPKA together with other community officers; 5) To provide assistance, guidance, and supervision to children who, based on a court decision, are sentenced to punishment or subjected to action; 6) Mentoring, guiding, and

⁷ Marlina, *Peradilan Pidana Anak Di Indonesia Pengembangan Konsep Diversi Dan Restorative Justice* (Refika Aditama:Bandung, 2009).

supervising children who receive assimilation, parole, pre-release leave, and conditional leave.

Based on the explanation above, it can be stated that the role and function of BAPAS in handling cases of children in conflict with the law is significant to achieve the objectives of the juvenile criminal justice system with the existence of community research reports and assistance to ABH, it is hoped that decisions will be taken by law enforcement officials (police investigators, juvenile prosecutors, and juvenile judges). In the general explanation of the Criminal Justice System Law, it is explained that the purpose of the Juvenile Criminal Justice System is to realize a justice system that genuinely guarantees the protection of the best interests of children in conflict with the law as the nation's successor.

B. Constraints of Class II Merauke Correctional Center in Handling Children in Conflict with the Law

Bapas Class II Merauke has a large working area. Its function as a place of guidance in cases of terminated juvenile offenders and in assisting children in court hearings makes it an institution whose performance is needed. It is alert and responsive regarding children's cases in particular. Law Number 11 of 2012 Article 4 paragraph (1) states that LAPAS and BAPAS are established in each regency or municipality capital, and paragraph (2) states that if it is deemed necessary, at the sub-district or administrative city level, a branch of BAPAS and LAPAS can be established. BAPAS is part of the justice system, guiding and assisting child offenders in the juvenile justice process.

In carrying out its duties and functions, BAPAS assists ABH, which becomes child clients; BAPAS is often still faced with technical and non-technical obstacles. These obstacles are experienced in preparing community research reports on ABH and at the pre-adjudication, adjudication, and post-adjudication stages. Based on the results of interviews with Mr. Renddy Taegernan, who was serving as Head of Sub Division of Child Client Guidance at the time of the research. Class H Correctional Center Merauke and with other Community Supervisors in charge of the Child Client Guidance section, information can be obtained regarding the obstacles experienced by the Class II Merauke Correctional Center in carrying out its duties, including the following:

1) Large working area

Assistance by Bapas often clashes with the extensive work area, which limits the time Bapas has to handle juvenile clients. Based on the results of an interview with Mr. Renddy F. Taegernan, he said that broadly speaking, the working area of the Class II Merauke Correctional Center initially only covered five districts, but now, with the change in the Decree of the Minister of Law and Human Rights in 2020 which initially covered five districts to 10 districts.

The Working Area of Bapas Class II Merauke has changed, based on the Decree of the Minister of Law and Human Rights Number: M.HH-12.0T.01.03 of 2020 dated December 07, 2020, which initially covered five districts to 10 districts, namely Merauke Regency, Mimika Regency, Nabire Regency, Paniai Regency, Asmat District, Mappi Regency, Boven Digoel Regency, Deiyai Regency, Dogiyai Regency and Intan Jaya Regency.

The correction facilities (BAPAS) have a large work area, almost covering half of Papua Province. This condition causes officers to have high mobility, consumes a lot of energy and

time, and causes many transportation costs to visit the residences of child clients. With limited facilities in the form of official vehicles, when there is a task to visit the residence of a child client whose residence is very far and remote, reaching these remote areas is very difficult regarding transportation costs. The obstacle is allocating transportation costs for Bapas assembled to assist.

2) Coordination between Law Enforcement Officials

Law No. 11/2012 on the Juvenile Criminal Justice System provides Bapas officers with a solid legal basis in their duties to make or compile Litmas and to be present to assist at every level of the legal process undertaken by ABH. In carrying out its duties to provide assistance and compile research reports (Litmas) on ABH, the Correctional Center is only passive. It means that the Correctional Center is only passive. It means that the Correctional Center only waits for data to be obtained and BAPAS Class II Merauke if other agencies, such as the Police, Prosecutor's Office, or Court, submit requests for assistance or requests for Litmas reports to implement diversion or trial of ABH. Thus, the role of the Correctional Center in assisting ABH is determined by other law enforcement officials who handle criminal cases committed by children. Differences and lack of understanding of the laws and regulations governing juvenile justice, in this case, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System between law enforcement officials and one another, resulted in a lack of understanding in handling criminal cases involving ABH. The differences and lack of knowledge resulted in no explicit coordination between the Correctional Center through Bapas officers and other law enforcement officials in handling cases committed by ABH.

3) Human Resources

The limited quantity of human resources of Bapas officers is one of the obstacles in the implementation of the role of the Correctional Center in handling children in conflict with the law because the number of Community Supervisors is not balanced with the amount of work that must be done for the benefit of the duties and functions of the Correctional Center. Based on the data obtained, it was found that the number of employees at the Correctional Center was only 17 people. The most severe is that there are only 7 Certain Functional Position (JFT) Community Supervisors and two people (JFT) Assistant Community Supervisors. It makes Bapas officers unable to work optimally due to the high workload.

4) Limited budget allocation or funds

Budgets or funds are vital in the implementation of every activity. Without funds, perhaps a job cannot be done. Based on the results of interviews with Mr. Renddy Taegerman, who was serving as Head of the Child Client Guidance Sub-section at the time of the research, information was obtained on the budget gap between the Balai. Correctional Center and other law enforcement officials are very far regarding operational budget allocation, administration, and employee welfare. Given the extensive performance of Bapas, namely ten districts, it must require a large budget, starting from visiting the homes of child clients, children's schools, and child victims and families, as well as facilities and infrastructure in conducting guidance at Bapas Class II Merauke.

5) Inadequate facilities and infrastructure.

Bapas officers, in carrying out their duties to handle criminal cases committed by children, both to compile community research reports and to follow and attend children's trials, are not supported by adequate facilities and infrastructure. The availability of facilities and infrastructure owned by the Class II Merauke Correctional Center in carrying out the process of mentoring child offenders is arguably quite alarming.

The facilities and infrastructure differ greatly from those in other law enforcement offices. One example is the preparation of community research reports by Bapas Merauke officers, who have only seven old computer units available. The limited number of computers resulted in Bapas officers inevitably having to use personal computers to perform their duties. This limitation resulted in less than optimal performance of the officers of the Merauke Bapas. Bapas officers must act quickly because they are forced by juvenile suspects or defendants' relatively short detention periods.

6) Family factors of ABH or child clients

Every child is the responsibility of their respective parents. However, not all parents want to take responsibility for their children who have become naughty children. Parents who have unruly children and have repeatedly committed criminal offenses often no longer want to take responsibility for their children. It difficult for Correctional Center officers to assist the perpetrator's child because, after all, parents still play a role in solving cases involving their children; for example, the availability of parents to provide information related to their children, the existence of parents who are in different regions with the perpetrator's child, and so on. If the parents no longer want to know about the case that is being experienced by their child, of course, the parents do not wish to provide information at all. It difficult for Bapas officers to make a community research report (Litmas). The community research report is an element that must exist in every case process involving child offenders.

7) LPKA and LPAS

LPKA is only available in one province; not every region has it, so it takes more effort for each UPT, which will be the place where children serve their criminal period. The UPT must be prepared regarding the implementation of children's rights, including the provision of education. No Special Development Institution for Children or Temporary Child Placement Institution exists in Merauke Regency. Still, in the Jayapura area, this makes the child perpetrator temporarily placed in an adult prison, which makes the fulfillment of children's rights needs and the provision of guidance suggested or recommended based on Litmas by Bapas officers not carried out. This will work when the child offender is placed in the LPKA in Jayapura. This makes it impossible to fulfill the planting of children who must be distinguished from adults.

The distance from LPKA makes Bapas Merauke unable to control its child clients in fulfilling their rights and the guidance they get at LPKA Jayapura. Also, this makes Bapas Merauke work with third parties to form a forum for mentoring their child clients because the local government has been unable to provide rehabilitation programs outside the institution. This indicates a lack of services to support rehabilitation and reintegration for children sentenced to alternatives to imprisonment or children undergoing reintegration. Three out of four diversions are completed by returning children to their parents. The majority of programs for children are centered within LPKA. An analysis of decisions from

the Merauke District Court shows that judges more often impose work training sentences at LPKA Jayapura than elsewhere outside the institution. Based on interviews, this is because LPKA Jayapura provides training.

CONCLUSION

Correctional Center is one of the Technical Implementation Units (UPT) within the Correctional Division of the Regional Office of Law and Human Rights that carries out law enforcement, especially in guiding children in conflict with the law (ABH), in carrying out its role is carried out through three stages, namely: 1) The pre-adjudication stage is when the police investigation process begins against ABH. At this stage, the role of the Correctional Center through Community Supervisors (PK) is to make a community research report (Litmas) and assist in the examination of ABH at the request or request of the police; 2) The adjudication stage is when the case involving ABH has entered the juvenile trial process. The role of the Correctional Center through the PK is to accompany ABH clients in every trial process. The juvenile judge decides the post-adjudication stage after the case involving ABH. The role of the Correctional Center through Community Supervisors is to guide, assist, and supervise juvenile clients in serving the sentence imposed on them. Then, the PK also has the task of compiling Litmas to determine the service program and coaching program that will be given to the child. The Correctional Center, in carrying out its duties and functions as a Technical Implementation Unit in providing assistance and guidance to children in conflict with the law (ABH), still encounters quite a lot of obstacles that can hinder the implementation of its role, namely: 1) Bapas Class II Merauke has a reasonably large work area. This condition causes officers to have high mobility, consumes a lot of energy and time, and causes transportation costs to visit juvenile clients' residences. The lack of coordination among law enforcement officials, especially those who specifically handle criminal cases committed by children, has led to intersections between the components of the Integrated Criminal Justice System (ICJS), misinformation, and delays in the process due to bureaucracy; 2) The number of Community Supervisors is not balanced with the amount of work that must be done for the benefit of the PK's duties. In addition to supervising and fostering juvenile clients, Community Counselors must conduct Community Research for investigation, prosecution, diversion, and submission of parole and conditional leave. In addition, Community Supervisors are also required to attend juvenile court in their working area. The minimal budget allocation to the Correctional Center's role and function is a pronounced non-technical obstacle. The difference between the Correctional Center and other law enforcers creates a very far social gap between Bali Correctional and other law enforcers to support the implementation of the duties of mentoring, supervision, and assistance of ABH by BAPAS; 3) Inadequate facilities and infrastructure Bapas officers are not supported by adequate facilities and infrastructure in carrying out their duties to handle criminal cases committed by children, compile community research reports, and follow and attend juvenile trials. The availability of facilities The infrastructure owned by the Class II Merauke Correctional Center for guiding child offenders is arguably quite alarming. The family of a child client who is not cooperative with PK officers from the Correctional Center can also be an obstacle in obtaining information about child clients, for the preparation of community research reports can be delayed from the time specified; 4) The unavailability of LPKA and LPAS in the Merauke Regency means that juvenile offenders still have to be placed in adult prisons,

which makes the protection and fulfillment of rights and special handling related to children unfulfilled. Also, the local government has not been able to provide rehabilitation programs outside of institutions, which makes Bapas PK officers, in their recommendations and decisions from the District Court, show that judges more often impose work training sentences at LPKA Jayapura to be able to get good guidance and training, even though in the law on the Child Criminal Justice System LPKA and LPAS are the last solution for children in conflict with the law (ABH). Not maximizing the protection of children's rights in the role of BAPAS for guidance and assistance by, namely: 1) There is still a delay in making Litmas and assistance due to the delay in letters from the police to make Litmas and assistance by BAPAS. There is a lack of peace efforts (diversion) carried out by the police and BAPAS; 2) There are still violations of children's rights by law enforcement officials (especially against psychic Children in Conflict with the Law (ABH)). The Law on Juvenile Justice System (Law No.11/2012) has mandated that in the best interest of the child, ABH must be protected through the involvement of BAPAS so that the results of Community Supervision (PK) are of high quality so that they can be considered by other law enforcement officials, especially judges. Proposed budget allocations to support the implementation of mentoring, guidance, and supervision tasks as well as assistance to children (ABH) and correctional clients, as well as the implementation of training and competency certification for BAPAS PK personnel to increase professionalism. The appointment of PK Bapas to prison/detention officers who have competence and dedication in handling ABH in areas that are very difficult to reach by the BAPAS office.

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