

## **FAIR TRIAL SOCIALIZATION FOR CHILDREN IN TROUBLE WITH THE LAW AT SPECIAL CLASS GUIDANCE INSTITUTION FOR CHILDREN (LPKA) CLASS I TANGERANG**

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### **ABSTRACT**

A method of limiting government intervention in crime. The social control of crime model is implemented through the deinstitutionalization of minor crimes, the transition of the formal justice procedure to informal guidance, and the decriminalisation of minor offences. The criminal justice system is separated from the perpetrator. To minimise stigma or being labelled as a criminal, law enforcement officers' roles are minimised as much as possible. Mediation, distraction, and social punishments are among the programmes being tested. Instead of enduring a formal court process, this model is thought only to increase the elasticity of coaching towards perpetrators (widening the net) (Siegel, 2011: 407). Children cannot be sentenced to death or life imprisonment under Indonesian law, which is unequivocally stated. In total, the prohibition on imposing death and life sentences on children is written in three statutory regulations: Article 66 paragraph (2) of Law Number 39 of 1999 concerning Human Rights, Article 3 letter (f) of Law Number 11 of 2012 concerning Systems Juvenile Criminal Justice (UU SPPA), and Article 64 letter (f) of Law 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. There is no maximum age limit in Indonesian legislation for those facing the death penalty; Indonesia solely governs the minimum age for imposing the death penalty, which is 18 years of age for children.

**Keywords:** child, fair trial, Special Class Guidance Institution for Children (LPKA)

### **1. INTRODUCTION**

Residents assisted by the Tangerang Class 1 Special Development Institute for Children are the profile of the target community for community service, so an explanation of (1) legal basis, (2) vision, mission, and objectives, (3) main tasks and functions, (4) scope, (5) targets, (6) organisation and work procedures, (7) facilities and infrastructure, and (8) data on inmates is required. Tangerang Class 1 Special Development Institute for Children has a vision, mission, and goals that are consistent with the 2015 Vision, namely to become a trusted institution in providing incarcerated students with protection, supervision, coaching, and education. To achieve this vision, this institution follows the following mission: (a) Creating a creative treatment system that fosters a sense of safety, comfort, and friendliness for children, (b) Providing care, services, education, and guidance in the best interests of children, (c) Developing children's devotion, politeness, intelligence, and cheerfulness, (d) Providing protection and services, and (e) Fulfilling children's rights. The above-mentioned vision and mission are realised in the form of a correctional system that is organised to form WBP for them to become: (a) complete human beings, (b) realise their mistakes, (c) improve themselves, (d) do not repeat criminal acts, (e) can be accepted by the community again, (f) can play an active role in development, and (g) can normally live as a good and responsible citizen.

Basically, the scope of coaching is divided into two parts, namely personality coaching and independence. Personality development, including fostering religious awareness, fostering national and state awareness, fostering intellectual abilities (intelligence), fostering legal awareness, and fostering social life (social integration). The development of religious awareness is carried out through activities such as Islamic boarding schools, reading and writing the Koran, religious services, celebrating religious holidays, etc. The development of intellectual abilities (intelligence) is carried out through educational activities. Such as formal education (elementary school, middle school and high school), non-formal education (pursue packages A, B and C), and informal education (painting, scouting, Islamic boarding school and smart home andikpas). Development of independence, including development of skills, as well as development of talents and interests. Skills development includes computer skills, sewing, screen printing, welding, plantation, and automotive. Meanwhile, developing talents and interests include sports and arts activities, namely badminton, volleyball, chess, table tennis, football, gymnastics, sepak takraw, futsal, drama, poetry, band and nasyid.

In certain circumstances, the principles governing fair trials may undergo a transformation that results in an unjust trial. The parameters governing the management of law enforcement initiatives about juvenile offenders. The aforementioned circumstance also impacts the pupils enrolled at the Tangerang Class I Children's Prison, a subset of whom possess limited comprehension of the concept of equitable judicial proceedings. There are nine (9) general targets and five (5) specific targets. The nine general targets encompass various objectives, including (a) Enhancing participation in formal, non-formal, and informal education among individuals, (b) Augmenting the availability of cost-free opportunities for individuals through PB, CMB, and CB programmes, (c) Facilitating increased engagement

in joint activities with the community to promote assimilation and reintegration, (d) Improving the overall health status of andikpas, (e) Enhancing the quality and quantity of coaching activities required by andikpas, (f) Strengthening the role and dedication of coaches, (g) Encouraging greater involvement and active participation of the community and family in the implementation of coaching programmes, and (h) Expanding coaching facilities and infrastructure. Moreover, the five distinct objectives encompass (a) Enhancing the level of faith and devotion towards the Divine, (b) Augmenting intellectual prowess, (c) Enhancing professional competence, (d) Improving attitudes and behaviour, and (e) Enhancing physical well-being.

## **2. METHOD**

The initial stages involve observing the pupils' condition within Class 1 Children's Prison in Tangerang. Subsequently, it is advisable to establish coordination with the Directorate General of Correctional Banten Regional Office to ascertain their level of willingness and establish a suitable schedule for the implementation process. The following section outlines the procedural steps that were undertaken to execute the planned activities successfully. Community service encompasses a range of activities undertaken by individuals or groups to benefit the community at large.

### **A. Initial Stage**

The proposed methodology involves the implementation of surveys, conversations, and observations with the structural officials at the Class 1 Children's Prison in Tangerang. The objective of this activity is to facilitate the attainment of implementation permits and establish activity schedules by reaching a mutual agreement. Subsequently, the team responsible for the presentation undertakes the task of assembling relevant resources about the subject matter of community service endeavours.

### **B. Implementation Stage**

The implementation stage is divided into socialization, talk shows, discussions and games.

### **C. Evaluation Stage**

At this stage, various evaluations of community service activities have been carried out in the form of activity reports. Evaluation is also needed to improve further activities. For the Criminology Study Program, the evaluation stage is in the context of forming a road map for research activities and community service.

This community service activity is carried out in the following form specifically:

#### **1. Religious Approach Activities**

The activity involved the dissemination of religious content by a presenting team, focusing on the topic of promoting hate speech within the context of the Special Class Guidance Institution for Children (LPKA) Class I in Tangerang. The activities encompass the recitation of sacred poetry and the delivery of religious discourses.

#### **2. Socialization and Discussion**

Following the religious exercise, the presenting team proceeded to provide a concise presentation, followed by an invitation for attendees to engage in a question-and-answer session about the central theme of the activity. This practise is conducted to assess the level of comprehension exhibited by the participants in relation to the subject that has been delivered. The presenting team might utilise queries and input from attendees to enhance the references.

## **3. RESULTS AND DISCUSSION**

Provisions of Article 85 paragraph (1) of Law Number 11 of 2012 concerning the Criminal Justice System Awak jo. Article 20 of Law Number 12 of 1995 concerning Corrections determines that children sentenced to prison must be placed separately from adults. This condition has been implemented optimally in LPKA Class I Tangerang. As confirmed in Law Number 12 of 1995 concerning Corrections, the correctional system is an order regarding direction and boundaries, as well as a way of coaching correctional inmates based on Pancasila, which is carried out in an integrated manner between the coaches, those being coached, and the community to improve the quality of correctional inmates so that be aware of your mistakes, improve yourself, and not repeat criminal acts so that you can make mistakes, improve yourself, and not repeat criminal acts so that you can be accepted again by society, can play an active role in development, and can live normally as good and responsible citizens.

Law no. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) strictly mandates the strategic role and function of correctional institutions in the juvenile criminal justice system. The strategic role of correctional

institutions starts from pre-adjudication adjudication to post-adjudication. The Special Children's Development Institute is at the post-adjudication stage, where it plays a role in guiding the protection of the human rights of Correctional Students (Andikpas). Coaching in this case, aims to prevent "privatization", namely a learning process in prison culture which can actually make a person's condition (andikpas) worse than before he entered prison.

There are several considerations in determining justice in justice, which leads to a sentence for children in trouble with the law (ABH), so it is worth considering that juvenile justice refers to the nonintervention model. The proposed methodology aims to restrict governmental involvement in criminal activities. The social control model of crime entails the implementation of deinstitutionalization measures for non-serious offences, the shifting of formal legal procedures towards informal guidance, and the decriminalisation of small criminal acts. The criminal justice system has a considerable spatial separation from the offender. Law enforcement officers are assigned a minimum role to mitigate the potential for stigmatisation or being categorised as criminals. The initiatives being implemented include mediation, diversion, and social sanctions. According to Siegel (2011: 407), this particular model is believed to enhance the flexibility of coaching interventions for offenders primarily, hence broadening its scope rather than resorting to a formal legal procedure.

The juvenile criminal justice system acknowledges the need to safeguard the well-being of children, hence necessitating separate trials for juvenile offenders. In the context of Juvenile Criminal Justice, it is imperative that all actions be conducted exclusively by professionals such as Juvenile Investigators, Juvenile Public Prosecutors, Juvenile Judges, or Juvenile Correctional Institution officials. This principle is rooted in the fundamental objective of safeguarding the well-being and best interests of children involved in the system. The judge issues a sentence or takes action with the aim of maximising the welfare of individuals involved but also considering societal interests and maintaining legal legitimacy. The imposition of criminal punishments on children is predicated upon the principles of veracity, equity, and the promotion of the well-being of minors.



Source: Documentation of the community service team

### **Figure Fair Trial Socialization at LPKA Class I Tangerang**

The field of Juvenile Criminal Justice primarily encompasses the implementation of correctional measures and rehabilitation strategies, with the ultimate goal of facilitating the reintegration of young offenders into mainstream society, thereby preserving their future aspirations and untapped capabilities. The act of imposing a crime or conduct carries the responsibility of accountability and may potentially yield benefits for the child involved. In the commission of any criminal or aggressive conduct, deliberate measures will be taken to minimise the infliction of harm upon victims, including the avoidance of suffering, mental distress, physical harm, and social detriment. To mitigate negative consequences that are detrimental in nature, it is imperative to prioritise the ethical foundation of punishment, specifically justice, as the sole basis for imposing penalties. Each instance of punishment should be evaluated not only in terms of its alignment with justice but also its potential to foster harmony, as justice is inherently intertwined with harmony. Punishment serves as a means to address the behaviour of misbehaving individuals, who can be held accountable for their actions. The assessment of these individuals should not solely rely on their spiritual and psychological capabilities at the time of the transgression but primarily on their eligibility to receive punishment and take corrective action.

In the legal context, it is impermissible for judges to impose cumulative sentences upon defendants, precluding the simultaneous imposition of both the offence and the corresponding penalty. In the context of juvenile delinquency, it is possible to concurrently apply primary and ancillary penalties, such as incarceration or restitution, as punishment. When adjudicating a crime or conduct, the court must consider the gravity of the criminal act or delinquency perpetrated by the juvenile. The judge is required to take into account various factors while making a decision, including the well-being of the child, the living conditions of the household, the roles of the parents, guardians, or foster parents, the dynamics within the family, the surrounding environment, and the information provided in the Community Guidance Report. The regulation of sanctions for children has been progressively addressed by the rules outlined in Articles 22-32 of Law Number 3. These sanctions might take the shape of either criminal penalties or corrective measures. When examined in greater detail, the punishment consists of a primary offence and an ancillary offence. The primary form of punishment entails incarceration, specifically in the form of Criminal Cage: V. Additionally, criminal fines and supplementary criminal supervision may be imposed. Crimes encompass the act of confiscating specific goods. The disbursement of financial reparation. Various measures can be implemented in response to the behaviour of juvenile delinquents, including the following: reuniting them with their biological parents, legal guardians, or foster parents; referring them to state-run programmes that provide educational, mentoring, and vocational training opportunities; or placing them under the supervision of the Department of Social Affairs or other social organisations that specialise in their education, personal growth, and vocational training.

The Juvenile Court operates on the same principles as the General Criminal Law (*Ius Commune*), thereby acknowledging the attribution of a single primary offence. From a strictly academic standpoint, it might be argued that the compilation of the two primary offences was falsely created. In accordance with Article 1, number 2, letter an of Law 3/1997, the Judge has the authority to impose one of the primary offences or actions in cases involving delinquent children who engage in criminal acts. Conversely, when children engage in acts deemed prohibited for their age group, as stipulated by statutory and other legal regulations applicable within the relevant society, the Judge can exercise their discretion under Article 1, paragraph (2), letter b of Law 3/1997. According to Article 25, paragraphs (1) and (2) of Law 3/1997, the judge is limited to imposing action. Moreover, when assessing the potential legal consequences for a kid, the judge considers the gravity of the criminal offence or delinquent behaviour committed by said youngster. The judge is additionally obligated to consider the well-being of the child, the household dynamics, the parents' or guardians' circumstances, and the familial relationships within the context of their environment. Similarly, the Judge has a duty to consider the report provided by the Community Advisor.

#### **4. CONCLUSION**

The penological revolution is a form of replacement discourse thinking about the nature of objects with social agents who are "alienated" from society. Penological transformation is based on 3 things, namely coproduction, dynamic systems (complex theory), and reification. This process is expected to provide new meaning for humans after experiencing a recovering subject. The basic explanation of Arrigo and Milovanovic's argument is as follows: First, humans as agents have dynamics reconstructed based on socio-political phenomena. The second assumption is about the complexity of system integration with the various theories behind it. The third assumption concerns reification to implement the role of "control" in society. The upstream thought of constitutive penology begins with a critique of the philosophy of modern punishment.

There are six criticisms of the implementation of modern punishment philosophy. The first criticism is that modern punishment is considered to have no incapacitated impact on the convict, instead, it is an attempt to take away their freedom of rights (incarcerated). The second criticism of prisons does not reflect efforts to provide corrections for human agents who are considered "wrong" for the better. The third criticism concerns the impact of incapacitation on the environment around the actor. The fourth criticism concerns the economic burden that must be borne by agents who are declared "guilty" by separating them from society. The fifth criticism concerns the latent impact of incapacitation around SARA in correctional institutions. Finally, the sixth critique of the criminal socialization process experienced by agents while undergoing the punishment process (prisonization).

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