

ANALYSIS OF RESTORATIVE APPLICATIONS IN SETTLEMENT OF THE CRIME OF CHILD NEGLECT (RESEARCH STUDY AT BARELANG POLICE STATION)

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ABSTRACT

Children, as creatures of God Almighty, have human rights as other humans, so no human or another party may deprive them of these rights. In the life of the nation and state, children are the future of the government and the next generation of the nation's ideals, so every child has the right to survival, growth, development, participation, and have the right to protection. In connection with this, children in Indonesia should get absolute safety and security protection in aspects of life. To achieve this goal, many laws have been formulated, both civil and criminal, to protect the safety and security of the community. The means that can be taken in prosecuting a crime of child safety and security is a restorative settlement. The principle of child protection is contained in the provisions of the child protection law created by the government so that children's rights can be implemented in Indonesia. The Indonesian government's concern for the dignity of children has been seen since 1979 when it made law no.4/1979 on Child Welfare. However, until the release of the Child Protection Act until now, the welfare and fulfillment of children's rights have not been fully met. This can be seen from a survey conducted in the jurisdiction of Barelang police Batam. Batam city is a city that includes a high population and is dense Batam city is still very minimal regarding the protection of children, causing public concern about the neglect of children's rights

Keyword: Application of restorative, neglect, child

1. INTRODUCTION

Children, as creatures of God Almighty, have human rights as other humans, so no human or another party may deprive them of these rights. In the life of the nation and state, children are the future of the government and the next generation of the nation's ideals, so every child has the right to survival, growth, and development, participation and is entitled to protection [1].

In connection with this, children in Indonesia should get absolute safety and security protection in aspects of life. To achieve this goal, many laws have been formulated, both civil and criminal, to protect the safety and security of the community. The means that can be taken in prosecuting a crime of child safety and security is a restorative settlement [2].

A restorative approach to justice focuses on the needs of victims and perpetrators, as well as the communities involved, rather than on punishing perpetrators of criminal cases of child neglect that occurred in the jurisdiction of the Barelang City Police Batam.

Children, either spiritually, physically, or socially cannot stand alone or live independently. Therefore, parents must be able to guarantee, guide, and maintain their child's interests. He is responsible for the rights of the child, that is, the parents or the family or the head of the family [3].

Parents, families, and communities are responsible for safeguarding and maintaining these human rights by the obligations imposed by law. Similarly, in the framework of the implementation of child protection, the state and government are responsible for providing facilities and accessibility for children, especially in ensuring their optimal and directed growth and development [4].

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release of the Child Protection Act until now, the welfare and fulfillment of children's rights have not been fully met. This can be seen from a survey conducted in the jurisdiction of Barelang police Batam.

Batam city as a city with a high population and is dense. The city of Batam is still very minimal in protecting children, causing public concern about neglecting children's rights. One of the police units that handle the protection of women and children (PPA) in Batam is PPA Polresta Barelang, which has a duty as a forum for community-based women and Children Empowerment Services.

Based on the above data shows every year an increase in child neglect, the government, especially the Government of Batam city, in dealing with the problems of children is not optimal, see still found cases of child neglect, so it can not the fulfillment of the rights of the child. Meanwhile, neglect of children, as a form of unfair treatment that occurs in children, occurs due to negligence and or inability of parents and or family to carry out their obligations so that their physical, spiritual, and social needs are not met reasonably. The neglected problem is increasingly evident in the limited availability of resources owned by families and communities to overcome social issues [5].

The problem is the extent to which the PPA Polresta Barelang unit appreciates the phenomenon of child neglect. This is where the interest of researchers is to examine in-depth how the police unit Unit PPA Barelang Batam City Police is providing a guarantee of restorative application in the completion of the crime of child neglect.

In Batam City, referring to data from the Batam City Barelang Police Police with police report number: LP-B/254/IV/2021/SPKT/Kepri/Resta Brlg dated April 01, 2021, there has been a criminal act of "child neglect" which occurred on June 05, 2020, at Perum. Palem Raya Block A2 No.08 p.001 RW.017 ex. Tanjung Sengkuang District. Batu Ampar-Batam City, as referred to in the formulation of Article 77 B of Law No. 35 of 2014 on amendments to Law No. 23 of 2002 on Child Protection, the case has been set suspect on behalf of YULIANDI reported by former wife SANMIR about child neglect on behalf of RANDA Harif OKTAFIANDI and SHARFINA MAHARANI AFRAN. That is true, as has been explained above; see the inner relationship of the reported and his actions in the form of intentional (*dolus*), based on the information reported in the statement, explains wants to teach a lesson to the reported child to be more respectful of the reported. In this case, the researcher argues that the act committed by the reported is intentional, where the reported has had the intention when in fact, the reported has known about the existence of the reported obligation to pay child support in the amount of Rp.3,500,000 (three million five hundred thousand Rupiah) every month until the child is 21 years old so that it can be said Brother YULIADI has violated Article 76 B UU RI No. 35 of 2014 on amendments to Law No. 23 of 2002 on Child Protection.

Meanwhile, regarding the next child neglect case handled by the women and Child Protection unit (PPA) of the Barelang police with police report number: LP-B/237/III/2021/SPKT/Kepri/Resta Brlg dated March 24, 2021, where there has been a criminal offense of child and wife neglect that has occurred since July 2020 in Sagulung Asri Block B Lot No.25 Ex. Bint River District. Sagulung Batam, committed by the suspect PANGGABEAN SINAGA, as referred to in the formulation of Article 77B UU RI No .35 of 2014 on amendments to law no.23 of 2002 on Child Protection.

Realizing that children are an essential part of the survival and quality of life and the future of the nation, the crime of child neglect should be adequately addressed and provide guarantees for the protection of the rights of children victims of child neglect because children need protection for the fulfillment of human rights that they have since birth. Based on the background of the above problems, the authors will conduct a study on "analysis of the application of Restorative in settlement of criminal acts of child neglect (research study at Polresta Barelang)."

1.1 Formulation of The Problem

Based on the background that has been stated above, the formulation of the problem in this study is as follows:

1. How is restorative effectiveness in completing criminal acts of child neglect (research study at Polresta Barelang)?
2. What are the obstacles to implementing restorative in the completion of the crime of child neglect (research study at Polresta Barelang)?
3. What is the alternative settlement of child neglect crime in Barelang police jurisdiction?

2. RESEARCH METHOD

Normative law research uses normative case studies as products of legal behavior, for example, reviewing laws. The subject of study is the law, conceptualized as norms or rules that apply in society and become a reference for everyone's behavior. Thus, normative legal research focuses on the inventory of positive law, legal principles and doctrines, legal discoveries in cases in concreto, legal Systematics, synchronization levels, comparative law, and legal history. (Abdulkadir Muhammad, 2004: 52). Based on the explanation above, the author decided to use the

normative legal research method to research and write the discussion of this thesis as a legal research method. The use of normative research methods in research efforts is based on the suitability of the theory with the research methods required by the author.

2.1 Data Sources And Data Collection Tools

Primary legal materials, namely all materials / legal materials with a juridically binding position. Primary legal materials consist of legislation related to research and secondary legal materials, which are in the form of materials or materials related to and explain the problems of primary legal materials consisting of books and literature-literature associated with the application of restorative justice in settlement of child neglect crime in Barelang Batam police.

2.2 Data Analysis

Data analysis is an important and decisive stage in a study. Data analysis is also a stage to find the source of the problem and the answer to the issue of the research conducted (Soerjono Soekanto, 2008:251). There are two types of data analysis methods, qualitative and quantitative. Qualitative analysis is descriptive data that includes words and images obtained from interview transcripts, field notes, photographs, videotapes, personal documents, and others. Quantitative analysis is done by giving the code, number, size, and operational variables.

After the legal material is collected, an analysis is then carried out to provide a final argument in the form of an answer to the research. The data analysis techniques in this study are descriptive. The descriptive method is the researcher describes what it is about an event or legal condition. Not only do it descriptively and then done in an evaluative way that will gain a view of the pros and cons. By looking at the composition of the law consisting of analogy, determination, and Acontratio.

3. RESULTS AND DISCUSSION

Neglect the child does not recognize the reasons for motivation/intention. Whether intentional or not, if a child is left without food, shelter, and clothing to protect him from various diseases and dangers, this incident is said to be neglected and will be penalized. A child is said to be abandoned, not just because he no longer has one parent or both parents. However, it also failed here in the sense that children's rights to grow up reasonably, obtain proper education, and get adequate health are not fulfilled because of negligence, parental ignorance, incompetence, or because of intentional. In Law No. 35 of 2014, Article 1 Paragraph 6 states that "abandoned children are children who are not met their needs reasonably, both physically, mentally, spiritually, and socially."

Law No. 35 of 2014 on Child Protection is changed from Law No. 23 of 2002 on Child Protection. The basis for forming this law is to provide legal protection to children. That children are shoots, potential, and the younger generation's successor of the ideals of the nation's struggle has a strategic role, characteristics, and special properties that must be protected from all forms of inhumane treatment that result in human rights violations [8].

With that, the authors concluded that the effectiveness of restorative application in the settlement of child neglect crime had implemented a new regulation, namely Law Number 35, the year 2014 amendment to Law Number 23, the year 2002 on Child Protection. Suppose law enforcement officers understand the existence of new regulations [9]. In that case, they still can't use the old rules, even though it is evident in Article 82 of Law Number 35 of 2014 concerning child protection. The basis for forming this law is to provide legal protection to children [10]. That children are shoots, potential, and the younger generation's successor to the ideals of the nation's struggle. It has a strategic role, characteristics, and special properties that must be protected from inhumane treatment resulting in human rights violations. Constraints in implementing restorative settlement of child neglect crime in this study are related to the child (victim) is difficult to be questioned because many are traumatized after being a victim of crime, this is very difficult for investigators to resolve the case, and it is difficult to find evidence on the case. Second. Usually, the perpetrator who abandons the child is from the child's parents [11]. As needed by the PPA investigator in completing the case file, the witness is none other than the perpetrator's family. This is why there is a reluctance on the part of the family to be witnesses because this can concern both the disgrace and the good name of the family [12].

Efforts to implement restorative in the crime of child neglect is the Barelang police Hardah right. Trying to reconcile with a wife who reported her husband based on child neglect is part of protecting her child. Suppose the case is forwarded to the prosecution stage, and finally, the husband/father is sentenced to imprisonment or imprisonment. In that case, the husband/father will only be in a condition of not being able to fulfill his obligations

as a father. Therefore, the efforts made by Bareleng police should not be viewed as ignoring the applicable law or defending the father reported. Still, peace efforts are carried out to protect children so that their needs are met [13].

4. CONCLUSIONS

Based on the descriptions that the authors describe in the discussion of this thesis, it can be concluded that the problems raised are as follows:

1. The effectiveness of restorative application in the settlement of child neglect crimes has been implemented by a new regulation, Law Number 35 of 2014, amending Law Number 23 of 2002 concerning child protection. The process of child neglect investigation conducted by the Batam City Resort Police should have run optimally. The role of the community and the family is still very lacking in assisting investigators in the investigation of child neglect because people do not care about the case of child neglect crime. At the same time, the family is to hide the perpetrator's identity because the perpetrator is part of one family.
2. Obstacles in the implementation of the investigation of the crime of child neglect in the police resort Polresta Bareleng is a difficult child to be questioned, the absence of witnesses. The perpetrator is the family of the victim. The efforts made to overcome the obstacles to the implementation of the investigation of the crime of child neglect in the police resort Polresta, asking for witness testimony, determining the perpetrator/suspect as a DPO, bringing the suspect, and reminding the family that the child's abandonment should not be done.
3. Efforts made by the police in tackling child neglect by the biological father are to seek peace in accepting reports of child neglect committed by the wife. This effort is made to avoid the report, in this case, the husband/father, so the issue is not forwarded to the green table. This is intended to prevent the imposition of criminal sanctions against the reported father so that he cannot carry out his obligations as a parent if the person concerned is subject to prison sanctions.

5. SUGGESTIONS

Based on the results of the study, the following suggestions can be submitted:

1. It is expected to optimize further the effectiveness of Law Number 35 of 2014 on Child Protection in the implementation and application of child neglect by parents. In addition, the community must also be concerned in this criminal case of child neglect.
2. Constraints in preventing child neglect by law enforcement are not optimal due to the weakness of the legal system consisting of components of the structure, substance, and culture that can not cooperate in implementing legal protection against child neglect victims. It is hoped that various agencies will be more active in tackling child neglect by parents to promote children's welfare.
3. In the case of complaints of criminal acts of neglect of children followed up in the form of efforts to reconcile, the Bareleng Batam City Police must also supervise the parties negotiated to ensure that the reported father has carried out his obligations as a child. This supervision can be done through cooperation with the Institute for women empowerment and Child Protection of Batam City in terms of coaching fathers who have committed child neglect.

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