

Review of Article 34 Paragraph (1) of the 1945 Constitution concerning Handling Abandoned Children (Case Study of the Labuhanbatu Regency Social Service)

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Abstract

Whereas abandoned children are children whose parents are unable to take responsibility and are unable to meet their basic needs due to economic factors, and the family is not harmonious. This type of research uses Juridical Empirical Research. While empirical juridical is a legal research method that looks at the law directly in looking at direct social facts that distinguish facts from norm values. Research Objects Labuhanbatu Social Service The research results if viewed from the Act Article 34 paragraph (1) that "the poor and neglected children are cared for by the State" in the sense that the Government has responsibility for the development and handling of neglected children. Furthermore, Article 28B Paragraph (2) which states "that the state is obliged to guarantee the right of every child to survival, growth, and develop, as well as the right to protection from violence, exploitation and discrimination. If it is seen from the issue of neglected children in the application of the article, it is still not optimal. Meanwhile, in handling abandoned children, the Labuhanbatu Social Service is still not optimal due to the limited impact of the Covid-19 outbreak for almost three years and the spread has not stopped. The Department of Social Affairs in this case tries to be maximal in handling neglected children with evidence of an emotional approach, in the form of data collection and fostering child survival.

Keywords

abandoned children; handling social services; 1945 constitution



I. Introduction

The 1945 Constitution is the constitutional basis of the unitary state of the Republic of Indonesia. The 1945 Constitution is the highest legal basis for regulating social and national life. As in Article 34 paragraph (1) of the 1945 Constitution, it is explicitly stated and written "The poor and neglected children are cared for by the state". It is quite clear that Article 34 paragraph (1) of the 1945 Constitution means that neglected children are cared for by the state organized by the central and local governments. The advantage of having a legal basis in the form of legislation is the obligation of local governments to play an active role and ensure that policy makers agree to achieve social welfare.

Social policy can be interpreted as a policy that affects social aspects in a narrow sense, namely the welfare sector. This social aspect is the social welfare sector as an area or part of social development or community welfare aimed at improving the quality of human life,

especially those categorized as disadvantaged groups and vulnerable groups (Arifani et al., 2018).

One of the functions of the Social Service is to implement social support programs for the community, especially in dealing with the problem of poverty. (Sambiran, 2019). In this case, the Office of Social Affairs has the authority and responsibility as regional affairs based on regional autonomy and social support, management of government businesses and social public services. One of the social phenomena that occurs today is the emergence of neglected children.

According to the constitution, they are real citizens and must be protected by the State. Therefore, the policy of the Social Service which is responsible for handling social welfare problems is expected to carry out their duties properly so that the problems of neglected children can be handled properly so that they can live normal lives.

Handling is a preventive action that helps minimize events that occur and efforts to limit or eliminate public space for neglected children are aimed at one person or group in order to prevent the incident from happening again (Muh. Salidyn et al., 2020).

That the background to the problem regarding the handling of the protection of neglected children in Labuhanbatu Regency is that there are still neglected children who still roam in the Labuhanbatu Regency area due to economic factors, family factors are not harmonious, No longer have both parents, lack of love from parents , parents in divorce and lack of attention from the surrounding community. On the other hand, there are also abandoned children who come from outside the Labuhanbatu Regency. In this case, an important role in the responsibility of the local government of Labuhanbatu Regency is to protect and provide good treatment for the handling of neglected children. It can be understood that abandoned children are the responsibility of all sectors, especially those from elements of the Regional Government.

This means that the government wants to help by providing skills development for children, so that children can maintain their survival. Meanwhile, children who are still under the age of the local government will provide guidance in the form of education, health and child survival in the form of special attention such as their own parents. Regarding matters of emotional closeness, which later can build children to have characters who need love from those closest to them. If we look in various areas, we often see many children who are less fortunate and depend on their fate from a hard life on the streets and in various places, even children are used as child exploitation for child crime predators. Indeed, children are the nation's generation who will continue the ideals of the nation that must be protected, loved, and protected. and get the full attention of various sectors. In particular, the Labuhanbatu Regency Government has maximized to focus on providing guidance for abandoned children, both immigrants from Labuhanbatu Regency and immigrants outside Labuhanbatu Regency.

Sociologically, children are defined as creatures created by Allah SWT who interact in the environment of the nation and state, in this case, children are positioned as social groups that have a lower social status than the society in which they interact. In this social aspect, the child is more directed towards the natural protection of the child himself.(Fitriani, 2016).

But in reality, we often encounter abandoned children on the streets begging, singing, being a shoe shiner, parking attendant and others are enough to cause problems that must be resolved for the child's survival. That abandoned children are children whose needs are not met properly, physically, mentally, spiritually and socially. From this background, it became my interest to research with the title "Review of Article 34 Paragraph (1) of the 1945 Constitution concerning Handling Abandoned Children (Case Study of the Labuhanbatu Regency Social Service)".

In the KBBI, abandoned is defined as something that is not cared for, not maintained and not taken care of. If the term abandoned is juxtaposed with the term child, it can be interpreted that an abandoned child has the meaning of a child who is not taken care of. Meanwhile, according to the provisions in the Child Protection Act, neglected children are defined as children whose needs are not met properly, whether physically, mentally, spiritually, or socially (Anugerah & Herlambang, 2018).

II. Research Methods

Whereas the object of research was carried out at the Labuhanbatu Regency Social Service, which was held from November 3 to December 2021. The type of this research used Juridical Empirical Research. Empirical juridical is a legal research method that looks at the law directly in looking at direct social facts that distinguish facts from norm values (Kep et al., 2019).

Sources of data used are primary and secondary data, Primary Data is data obtained directly from the field (field research). Primary data obtained from the field using observation techniques, interviews with the Labuhanbatu District Social Service informants, and documentation that is considered important to support the research. Secondary data is data obtained from literature books, research journals, articles, papers related to the material discussed.

III. Discussion

3.1 Review of Article 34 paragraph (1) of the 1945 Law concerning Abandoned Children at the Social Service of Labuhanbatu Regency

The protection of children is handled by the Labuhanbatu District Social Service which works under the auspices of the local government. The obligations and responsibilities of local governments are to respect the fulfillment of children's rights without distinction of ethnicity, religion, race, class, gender, ethnicity, culture and language, legal status, birth order, and physical and mental conditions. Then, to ensure the fulfillment of children's rights, the Regional Government of Labuhantatu Regency is obliged and responsible to implement and support national policies in the implementation of protection against the fate of neglected children who need special attention.

Local governments are also obliged and responsible for providing support for facilities, infrastructure, and the availability of human resources in the implementation of child protection (Anugerah & Herlambang, 2018). In the implementation of government politics in the regions, it is not possible to only prioritize one aspect (economics) but it is important to pay attention to other aspects, namely environmental sustainability so that the implementation of green government is very important in supporting environmental sustainability in the political process of government in the regions (Dama, 2021). The Government of the Republic of Indonesia was formed to protect the whole of the Indonesian people (Angelia, 2020).

That after direct observation and interviews with the Labuhanbatu District Social Service, which works under the auspices of the Regional Government, which serves, manages, and provides guidance in the social sector. The Department of Social Affairs has the flexibility to play a role and adjust their functions to the handling of neglected children in Labuhanbatu Regency.

That if we look at the very basic rules regarding neglected children, they are protected by the State or the government in writing as contained in the 1945 Constitution Article 34

Paragraph (1), which reads "The poor and neglected children are cared for by the state". This means that the State is very attentive to the fate of neglected children if it is not immediately addressed and given special love and guidance. In this case, the Labuhanbatu Regency Government has done as much as possible to carry out the mandate of the regulation. It can be seen in the work and function of the Social Service which always cares about the condition of the children. It is reaffirmed in the 1945 Constitution in particular Article 28B Paragraph (2) which states "that the state is obliged to guarantee the right of every child to survival, growth, and development, and the right to protection from violence, exploitation and discrimination". In Law No. 35 of 2014 changes from Law 23 of 2002 concerning Child Protection. It is contained in Article 1 Paragraph (2), explaining "That child protection is all activities to guarantee and protect children and their rights so that they can live, grow, and develop, and participate optimally in accordance with their dignity and protection from violence. It can be interpreted by the enactment of the child protection law specifically, in this case the Central Government and Regional Government must be able to properly carry out the mandate of the State through the enactment of these rules.

The implementation of the neglected children law in Indonesia is contained in Article 34 paragraph (1) which reads "the poor and neglected children are cared for by the state". In the sense that the government has the responsibility for the development and handling of neglected children. Child protection is an obligation by every parent, family, community and even as a citizen (Hermana, 2016).

It is clear enough for the survival of neglected children and their development both in the education, clothing, food, health and other survival sectors. That it is quite clear when viewed from the 1945 Constitution as referred to in Article 34 Paragraph (1) explaining "The poor and neglected children are cared for by the state". In the interpretation of the article, the state is responsible for neglected children, namely through the efforts of the Government, both the Central Government and the Regional Government. Furthermore, regarding neglected children, it is strengthened by Law No. 35 of 2014 changes from Law 23 of 2002 concerning Child Protection. It is contained in Article 1 Paragraph (2) "Explaining that child protection is all activities to guarantee and protect children and their rights so that they can live, grow and develop (Password, 2019).

3.2 Efforts for Handling Abandoned Children at the Labuhanbatu District Social Service

Based on observations, researchers found the number of neglected children in 2020 recorded by the Labuhanbatu District Social Service was 34 neglected children. Some of the abandoned children came from Labuhanbatu Regency, some came from outside Labuhanbatu Regency. It could even be that the arrival of neglected children will increase if they are not handled properly and give special attention to neglected children.

Table 1. The Subjects of Research Informants

Number	Name	Position
1	H. Zainuddin Harahap, SH, MH	Head of Social Service
2	Pujianto, SH	Social Reliability Facilitator/Children
3	Ardiansyah Hasibuan	Social Rehabilitation Operator

As we know, considering the mandate of the Constitution 194 Article 34 Paragraph (1) explains "The poor and neglected children are cared for by the state". (Lubis et al., 2019). This mandate must be carried out because children are national assets that must be protected.

Abandoned children are the responsibility of the State, through the Central Government and Regional Governments. Of course, regarding the coaching that should be carried out by the Labuhanbatu District Social Service in order to minimize and complete the number of neglected children in the Labuhanbatu District Social Service.

Considering the contents of Article 34 paragraph (1) in the 1945 Constitution, it is very clear that abandoned children are cared for by the state, where the state is responsible for neglected children, namely through the efforts of the Government, both the Central Government and Regional Governments because children are the successors and generations who will fight for the ideals of the nation and state in the future (Fitriani, 2016).

Whereas regarding the results of the interview with the informant, the head of the Social Service in this case gave his response as follows:

The informant on behalf of H. Zainuddin Harahap, SH, MH as the Head of the Social Service gave information regarding neglected children. Abandoned children in Labuhanbatu Regency do not come from local Labuhanbatu Regency only, but also come from outside Labuhanbatu Regency. Meanwhile, the handling of abandoned children. The Labuhanbatu Regency Government has made as much effort as possible to provide special attention such as housing in the rehabilitation of abandoned children, food and clothing, special skills development. With character education to change children can survive for their survival. The goal is that children are not dependent on others (Independent). This special attention is also the background so that children are not used as predatory objects for child exploitation for people who are not responsible for children. The informant also explained that some children were given religious education by being given guidance through orphanages or Islamic boarding schools to gain knowledge and provision for children in the future. Meanwhile, the obstacles to dealing with neglected children at this time are the limitations of social interaction due to the Covid-19 outbreak which has not completely disappeared for three years, resulting in not optimal activities to handle neglected children.

The informant on behalf of Mr. Pujiyanto, SH, as the Social/Child Rehabilitation Assistant said "The obstacles experienced by the Labuhanbatu District Social Service in dealing with neglected children in the Labuhan Batu district are the outbreak of the Covid-19 disease which is very scary and contagious so that activities are limited, so that the socialization program is not running optimally in all sectors. In addition, sometimes we find abandoned children who are deaf, blind, some are even mute, so we have difficulty interviewing these children." but we as the Labuhanbatu District Social Service do not give up on handling neglected children, because basically children are full rights to be protected and given more love.

The informant on behalf of Mr. Ardiansyah Hasibuan as the Operator of the Social Rehabilitation Sector explained that abandoned children were always monitored at all times and even always recorded to find out the condition of the abandoned child. Children are a national asset that must be protected and given a better place (not abandoned).

From the three informants, it can be concluded that abandoned children are the responsibility of the State, Central Government and Regional Governments. The efforts of the Social Service are as follows:

1) Doing Data Collection

Data collection is a process of collecting information about the lives of neglected children, information about their families, places of origin, welfare problems needed. In searching for the data and information, the Labuhanbatu District Social Service conducted interviews with abandoned children which were then used as a reference in planning the implementation and evaluation of child protection at the Labuhanbatu District Social Service. This data collection is carried out by social workers in the social service office. From the

results of the interview with Mr. Pujianto SH as Social Rehabilitation/Children, the first steps in efforts to handle neglected children are as follows:

"The Social Service's initial step in handling abandoned children is to interview and ask the child's basic needs, for example, if the child is hungry, thirsty, then they are given food first. Furthermore, interviewing and tracing the area of origin of the child to obtain information about parents, closest relatives, finding out his identity, the next step after knowing the address and the parents or closest family of the child will be returned to his parents and place of origin. If the address of the child is not known, then it is the responsibility of the Social Service to provide child guidance."

2) Providing Social Services

The Social Service Office of Labuhanbatu Regency makes efforts to handle neglected children for handling basic needs through child care. In carrying out social services, the Labuhanbatu District Social Service entrusts abandoned children to orphanages. The orphanage is a social institution to deal with the problems of neglected children who are not found in their area of origin or their siblings. In the orphanage the basic needs of children are met, children can also access re-education which was previously difficult to obtain.

If it is understood the mandate of the 1945 Constitution Article 34 Paragraph (2) and Law Number 23 of 2002 and Law Number 35 of 2014 confirms that the responsibilities of parents, family, community, government and the state are a series of one unit that cannot be separated to protect children continuously for the protection of children's rights. . The series of activities must be sustainable and directed to ensure the growth and development of children, both physically, mentally, spiritually and socially. This action is intended to create the best life for children who are expected to later become the nation's successors.(Ministry of Health, 2014).

a. Against Child Protection (Protection Rights)

Protection rights, namely the protection of children from discrimination, acts of violence, and neglect for children who do not have families and for refugee children. The right to protection from discrimination, including the protection of children with disabilities to obtain special education, care and training, as well as the rights of children from minority groups and indigenous peoples in the life of the State community

Protection from exploitation includes:

- a. Protection from interference with personal life;
- b. Protection from involvement in work that threatens the health, education and development of children;
- c. Protection from drug and drug abuse;
- d. Protection from attempts at sexual harassment, prostitution, and pornography;
- e. Protection from attempted sales, smuggling, and child abduction; and Protection from legal process for children who

b. The Right to Child Development (Development Rights)

The right to grow and develop includes all forms of education (both formal and non-formal) and the right to achieve an adequate standard of living for the physical, mental, spiritual, moral and social development of children. The child's right to education is regulated in Article 28 of the Convention on the Rights of the Child which states that:

- a. The state guarantees the obligation of basic education and provides it free of charge;
- b. Encourage the development of various forms of education and are easily accessible to every child;
- c. Making information and guidance on education and skills for children; and

- d. Take steps to encourage regular attendance at school and a reduction in dropout rates. (Rika Saraswati: 2015)

The problem of social welfare for children is the responsibility of the government, in carrying out its handling, the Ministry of Social Affairs has the task of maintaining and assisting neglected children in each region. (Wahyudin & Students, 2020).

IV. Conclusion

1. Based on the results of the research in the discussion, it can be concluded that the review of Article 34 paragraph (1) of the 1945 Law concerning the Handling of Abandoned Children in the Social Service of Labuhanbatu Regency seen from the way the handling has not been effective, the implementation of Article 34 (1) of the 1945 Constitution which states that "the poor poor and neglected children are cared for by the state" but found there are still neglected children who lack attention from the state and government. It is hoped that in the future neglected children can be given special attention because children are national assets that must be protected by law. Parents, community, state, government can work together in solving neglected children.
2. The process of handling abandoned children at the Social Service of Labuhanbatu Regency has started well, namely by conducting data collection to obtain valid information about neglected children, this effort is carried out with an emotional approach by interviewing about neglected children who come from anywhere. Furthermore, if the child's address is known, the child is sent back to the area of origin facilitated by the Social Service, whereas if the child does not know or the child is still very young, the Social Service provides guidance by providing education and proper housing, namely in an orphanage for better survival of the child.

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