



# Protection of The State on the Constitutional Rights of Street and Negligate Children in Review of the KUHP Bill on Variety (Case Study in the Regional Regency of Sukabumi)

Resa Agustina <sup>1\*</sup>, Endah Pertiwi <sup>2</sup>

<sup>1,2</sup> Law Study Program, Nusa Putra University

<sup>1,2</sup> Sukabumi, West Java, Indonesia

<sup>1,2</sup>(resa.agustina\_hk19, endah.pertiwi)nusaputra.ac.id

**Abstract.** Neglected and street children are those whose parents, for various reasons, fail to fulfill their obligations, leaving the children's physical and spiritual needs unmet. These children, aged 5-18, may be neglected due to factors such as poverty, illness of a parent or guardian, death of one or both parents, family discord, or lack of a caregiver, resulting in unmet basic physical, spiritual, and social needs. Abandoned children and street children often do not receive proper care and love from their parents or close family, leading to neglect. Street children, in particular, choose to live on the streets despite the potential for a better life if they sought it. Child protection encompasses all efforts to ensure and safeguard children's rights, enabling them to live, grow, develop, and participate optimally in accordance with human dignity and values, while also being protected from violence and discrimination. This protection is a crucial aspect of law enforcement, which is complex not only due to the intricacies of the legal system but also because of its interplay with social, economic, political, and cultural systems. Constitutional rights are entitlements guaranteed to every citizen by the country's constitution, forming a part of human rights. These rights are protected and ensured by the state constitution, emphasizing the state's role in upholding and safeguarding these fundamental rights.

**Keywords:** Protection, Government/State, Neglected Children and Street Children.

## 1 Introduction

Law is a science that has a very universal method. Today, the science of law has developed into a branch of knowledge that regulates human rights. One of the most important parts in the protection of human rights (human rights) is related to the protection of children's constitutional rights. The child is a potential growth and development of a nation in the future, which has special characteristics and characteristics. This specificity lies in the attitude and behavior in understanding the world, which must be faced.

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Therefore, children should be given special protection by the state. As stipulated in the 1945 Constitution in Article 34, which explicitly mandates that the poor and neglected children are cared for by the state. However, the very main problem is why our law is powerless to provide legal protection for street children. Government Regulation Number 2 of 1988 Article 6 paragraph (2). Indonesian children can be taken as foster children, their skills will be improved through social services, mentally fostered so that they return to normal and natural conditions for children to grow and develop properly, so that this potential can contribute to realizing civil society (Civil Society) in nation building .

Abandoned children are children whose lives do not get the love of their parents or close family properly, so they are abandoned by their families. While street children are children who choose to live on the streets even though if they want to try they can live to be better people. neglected children are cared for by the state by being cared for in orphanages or the like, while street children must be rehabilitated so that their perspective on life changes so that they can become better people compared to when they are on the streets. Psychologically, street children are children who at some level certain people do not have enough mental and emotional strength, while they have to struggle with the street world which is harsh and tends to have a negative effect on the development and formation of their personality. Child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity. Child protection is part of the problem of law enforcement, which is not simple, not only because of the complexity. the legal system itself, but also the complexity of the relationship between the legal system and the social, economic and political systems and culture of society. As a process, law enforcement is essentially a variable that has a correlation that is interdependent with other factors.

Likewise in terms of child protection, namely children as the next generation of the nation that we must protect and need protection from the surrounding environment, especially parents. The environment in which a child develops will greatly determine how the child's character is formed. Contrary to the facts, neglected and street children who do not have a family do not receive their rights such as health insurance.

Even though health insurance includes the rights of all children, where every child has the right to be able to live, grow and develop optimally. Children also have the right to obtain proper health services according to their physical and mental spiritual needs. This is guaranteed in Article 8 of the Child Protection Act and Article 62 of Law number 39 of 1999 concerning Human Rights, both for children who have families and abandoned children without families, all children have the same rights and cannot be taken away by anyone. just. The fact is that neglected children and the poor do not have proper health insurance, including obtaining proper health services according to their physical and mental spiritual needs. In the city of Sukabumi, it turns out that I still meet a lot of street and abandoned children who don't have a decent life. From these facts, it's very important for us to know the problems in this matter and how abandoned and street children can get guarantees law in terms of health insurance because in Article 34 paragraph (1) of the 1945 Law that the poor and neglected children are cared for by the state.

## 2 Problem Formulation

1. What is the effect of the latest regulations contained in the RUU KUHP regarding abandoned children and street children?
2. What are the constitutional rights of abandoned and street children and the role of the Sukabumi city government in dealing with these problems?

## 3 Discussion

### 3.1 Influence of Regulations on the Bill KUHP Related to Neignable Children and Street Children

The Criminal Code Draft Bill is one of the government's efforts to develop a national criminal law recodification system that aims to replace the old Criminal Code as a legal product of the Dutch East Indies colonial government. The Criminal Code Bill aims to rearrange the building of the national criminal law system. This is of course different from the drafting or drafting of the usual Bills that are often made so far.

However, in this case, there is a lot of controversy that has occurred in the drafting of the Criminal Code Bill, one of which is regarding the Criminal Code Bill for homeless people, which cornered one of them abandoned children and street children. With regard to controversial articles, one of which is contained in Article 431 of the Criminal Code Bill which mentions street children and neglected or vagrant, namely "everyone who is homeless on the street or in a public place who disturbs public order shall be punished with a maximum fine of category 1". In fact, the article on vagrancy in the Criminal Code Bill has also provided leniency, namely a maximum fine of 1 (one) million Rupiah than stipulated in Article 505 of the Criminal Code, namely imprisonment for a maximum of 3 months and Article 429 of the Criminal Code Bill on Homeless Everyone who wanders on the street or in a public place that disturbs public order shall be punished with a maximum fine of category I.

However, in connection with the articles above, there are still many parties who protest or criticize because there is an assumption that homeless people and even homeless children on the streets mean people who do not have property so they cannot pay fines. Homeless behavior in both the Criminal Code and the Criminal Code Bill is categorized as behavior that disturbs or violates public order. Based on the Ruling of the Constitutional Court Number 29/PUU-X/2012, the prohibition against living without home is a limitation that becomes the authority of the state, while Article 34 paragraph (1) The 1945 Constitution of the Republic of Indonesia states that caring for the poor and neglected children is a constitutional obligation of the state that must be carried out by taking into account the capabilities of the state.

So it is clear that the state has full responsibility for the poor and neglected children, and the human rights of neglected children and/or the constitutional rights of abandoned children are essentially the same as the human rights of children in general, as clearly stated in the Law. number 39 of 1999 concerning Human Rights, and Decree of the President of the Republic of Indonesia Number 36 of 1990 concerning Ratification of

the Convention On The Right Of The Child. Convention on the rights of the child (Convention on the right of the child) sparked by the United Nations (United Nations) has been ratified by Presidential Decree number 36 of 1990, stating that because of the physical and mental immaturity of children, they need special and non-special attention and protection.

However, what we see here is that the state seems to be avoiding this responsibility. Talking about these children, of course, those who come from backgrounds with low education, low economy, can be said to have nothing," then the presence of the state here is actually how to provide for them. , protect them because Judging from their background abandoned children and street people who are homeless are mostly poor people whose parents do not have jobs or work with very minimal and inadequate wages. Therefore, the needs are even more unfulfilled and they are willing to become like that. Therefore, it is better for the government to look at the basic things that are the cause of the behavior that disturbs public order, rather than punishing them by possibly opening up more job opportunities so that they can earn a living and receive income. decent wages to meet their needs .

Thus, this is not a justification for anyone to live in violation of the law, to commit vagrancy, to ignore public order, on the grounds that the state has not carried out its obligations to look after the poor and neglected children. With regard to the article on vagrancy, it is clear that what is not permissible is living homeless because it can violate public order.

The article on vagrancy in the Criminal Code Bill has actually provided leniency, namely a maximum fine of 1 (one) million Rupiah than stipulated in Article 505 of the Criminal Code, namely imprisonment for a maximum of 3 months and Article 429 of the Criminal Code Bill on Homeless Everyone who is homeless on the street or in a public place that disturbs public order shall be punished with a maximum fine of category I.

### **3.2 Constitutional Rights to Neighborhood and Street Children and the Role of the Sukabumi City Government in Handling Them**

Talking about constitutional rights are rights that are owned by every citizen in accordance with the constitution in force in his country. The existence of constitutional rights is part of human rights whose fulfillment and protection are guaranteed in the state constitution. The Constitution comes from the Latin, namely *constitutio*, is the Basic Law which is understood as the norms of the political and legal system in a country which are documented in writing, in which there are rules, institutions and their division of authority, rights and obligations. Basically and in essence, Constitutional Rights are the rights of citizens guaranteed by law.

The scope of the constitutional rights of abandoned children is that as a result of parents not providing a living for their children, the child becomes neglected, his basic needs are not met and the result is that he cannot grow and develop optimally. Child neglect is an intentional or unintentional action that results in the child's basic needs not being met for physical, intellectual, emotional, social and spiritual development. As a

country with the ideology of Pancasila, and upholding national and human values, Indonesia has many different regulations, but all of them provide firmness in efforts to protect constitutional rights for neglected children. Caring for neglected children in Indonesia is a goal of the rule of law to guarantee the fulfillment of the constitutional rights of abandoned children stated in the article mentioned above so that they can live, grow and develop and participate optimally in accordance with what is mandated by law. - The 1945 Constitution.

Likewise with the Sukabumi City Regional Government. Various strategies for handling the cases of abandoned and street children were established by the Sukabumi City Government in the form of services, social assistance, social empowerment, social rehabilitation and social protection. However, the number of these cases is increasing and problems related to poverty and economic factors always arise. This means that the fact shows that there are still so many people in Sukabumi City who have not been able to meet their basic needs, so that in order to achieve a decent life, the role of the government is really needed. It cannot be said that social justice has been realized when there are still many people with social welfare problems, which is one of the obligatory matters for the Sukabumi city government to deal with this problem.

This is because this problem is closely related to poverty. because what is included in this problem are abandoned children, street children who are economically disadvantaged, so they are willing to struggle with the outside world and wander around on the streets. Such children usually carry out various jobs and activities in various informal sectors which are legal or illegal in the eyes of the law.

There are those who work as scavengers, become clowns, polish street shoes, wash cars, even busking between red light intersections and not infrequently there are children who do work that smells of crime such as yelling, robbing, even being a gang of robbers or other things what they can do in the street world for a little money so they can at least buy food. In many cases children like this often live and develop under the stigma or labeled as disturbing the order. Their behavior is actually a logical consequence of their social stigma and alienation in society.

Actually, the Sukabumi City Government has a policy related to social problems, namely Sukabumi City Regional Regulation No. 6 of 2016 concerning the implementation of social welfare with the contents of social rehabilitation for street/neglected children, homeless people, beggars and so on. This regulation underlies the government of Sukabumi City to minimize the causes and effects of street children. Considering that the existence of street children tends to endanger themselves and/or others and peace in public places and allows them to become targets of exploitation and acts of violence, the government of Sukabumi City considers it necessary to deal with it in a comprehensive, integrated and sustainable manner.

However, it turns out that all of these goals and objectives have not been implemented optimally. Because it is evident from what I have seen that the problem of abandoned and street children has not diminished.

In this case, the local government should pay more attention to and protect, abolish, and provide rights that should be given by children of their age, such as educational facilities and infrastructure and training that can support education and foster creative

skills that exist in them specifically. for those who are economically disadvantaged so that in the future the future of children in Indonesia can be better.

This can be determined from the work system and control of the government which has the duties and objectives of a state's power. One of the goals of the government is to uphold fundamental human rights, namely to uphold and protect human rights to freedom, equality, peace and justice for its people. If it is to achieve a state goal of creating a just, prosperous and prosperous society, the government must carry out various policy strategies that are directed and focused on managing social problems and welfare experienced by its people.

#### **4 Conclusion**

Child protection is part of the problem of law enforcement, which is not simple, not only because of the complexity of the legal system itself, but also the complexity of the relationship between the legal system and the social, political, economic and political system and culture of society. Constitutional rights are rights that every child has. citizens according to the constitution in force in their country. Concerning the State Protection of the constitutional rights of abandoned and street children in Indonesia in the amendments to the 1945 Constitution of the Republic of Indonesia namely;

The regulation of the constitutional rights of abandoned children in the laws and regulations that apply in Indonesia is formal, the state's protection for the care of abandoned children and concern for their future already exists in Article 34 Paragraph (1) which states "The poor and neglected children are shown by the state" in this article, abandoned children are the responsibility of the state. From various aspects and essentially the same as the scope of children's constitutional rights in general, there is no difference either in terms of regulation or protection.

#### **5 Suggestion**

1. The government when making policies or laws and regulations must be in the interest of and take sides with the problems of abandoned and street children because after all they are Indonesian people. So that the function of the state to care for abandoned and street children will be realized in its solution.
2. To overcome these problems, this can be done in the following ways: Establish halfway houses for abandoned and street children, Free Education Fees for Neglected Children and Poor Families, Facilities and social welfare from the State need to be improved, Increase Access to Get Scholarships, Improve the System Learning

## 6 Authors' Contributions

**Table 1.** Authors' Contributions

Name	Author Position	Science	Contribusions
Resa Agustina	First Author	Law	Collecting library data and preparing journal drafts
Endah Pertiwi,S.H,M.Kn	Last Author	Law	Directur and final coordinator of the journal

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