

THE IMPLEMENTATION OF THE PROTECTION AND FULFILLMENT OF CHILDREN RIGHTS IN PALU CITY

*(PELAKSANAAN PERLINDUNGAN DAN PEMATUHAN
HAK ANAK DI BANDAR PALU)*

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Abstract

Indonesia has ratified the Convention on the Rights of the Child (CRC) through Presidential Decree No. 36 of 1990 which states, among other things, that encouraging the fulfillment of children's rights and ensuring the development of children with a holistic, integrative and sustainable approach covering all aspects of human rights. Therefore, Indonesian is morally and politically bound to recognize and respect the rights of the child and perform the duty to protect, fulfill and promote the rights of the child. Palu City Government has made various efforts in implementing the protection and fulfillment of children's rights, as outlined in various policies related to the fulfillment of the Rights of the Child, among others; Palu Mayor's Decree Number 490/261/DP3A/2017 on KLA Task Force Team of Palu City 2017-2020, Palu Mayor's Decree Number 463/883/BKB-PP/2015 About the Nosarara Palu Children Forum Board for 2015-2016, and Mayor's Decree Number 0836/242/BKB-PP/2016 on the Community-Based Integrated Child Protection Work Team of 2016. The issue of child protection is not only limited to the provision of child protection regulations, but the consistency of the implementation of such regulations becomes important for a follow-up. The lack of equality of views on the problems that resulted in differences in understanding of needs and models of handling becomes an obstacle for implementing the fulfillment of children rights in Palu City.

Keywords : children rights, protection and fulfillment, regulation

Abstrak

Indonesia telah meratifikasi Konvensyen Hak Kanak-Kanak (CRC) melalui Keputusan Presiden No. 36 tahun 1990 yang menyatakan, antara lain, yang menggalakkan pematuhan hak-hak anak-anak dan memastikan perkembangan anak-anak dengan pendekatan holistik, integratif dan berkelanjutan meliputi semua aspek hak asasi manusia. Oleh itu, Indonesia secara moral dan politik terikat untuk mengiktiraf dan menghormati hak anak dan melaksanakan tugas untuk melindungi, memenuhi dan mempromosikan hak anak. Kerajaan Kota Palu telah melakukan pelbagai usaha dalam melaksanakan perlindungan dan pematuhan hak-hak anak, seperti yang digariskan dalam berbagai kebijakan yang berkaitan dengan pematuhan Hak Anak, antara lain; Keputusan Datuk Bandar Palu Nomor 490/261/ DP3A/ 2017 tentang Kumpulan Tugas Angkatan Udara KLA Bandar Palu 2017-2020, Keputusan Datuk Bandar Palu Nomor 463/883 / BKB-PP/ 2015 Tentang Dewan Forum Anak Nosarara Palu untuk 2015-2016, Surat Keputusan 0836/242/ BKB-PP/ 2016 mengenai Kumpulan Kerja Perlindungan Kanak-Kanak

Terintegrasi yang Berasaskan Masyarakat pada tahun 2016. Isu perlindungan kanak-kanak tidak hanya terbatas pada penyediaan peraturan perlindungan anak, tetapi kemampuan pelaksanaan peraturan tersebut menjadi penting untuk susulan. Kekurangan kesamaan pandangan mengenai masalah yang mengakibatkan perbezaan dalam pemahaman tentang keperluan dan model pengendalian menjadi halangan untuk melaksanakan pematuhan hak-hak anak di Bandar Palu.

Kata kunci : *Hak kanak-kanak, perlindungan dan pematuhan, peraturan*

INTRODUCTION

The 1945 Constitution of Republic of Indonesia, Article 28B, paragraph (2), mandates that *every children has the right to survive, growth and develop and is entitled to be protected from violence and discrimination*. Thus, constitutionally, the child has constitutional rights and the state shall guarantee and protect the fulfillment of children's rights which are human rights. This formulation is further derived in the Law of Republic of Indonesia No. 23 of 2002 regarding Child Protection, stated that *the child is the trust and the gift of God Almighty, in whose inherent dignity as a whole person*. While the definition in Article 1 mentioned that the meaning of a child is a person under 18 years old, including unborn children. Therefore, it can be concluded that the child is a human who has not grown and under the age of 18 years old who are still vulnerable to errors so that supervision from another human is needed. In the relation of child rights, the state has an obligation to guarantee the rights of every child. Because the child does not stand alone and requires the family or caregiver to get his or her rights, the state is also obliged to support the parents / family or have custody of the child so that they can provide the basic needs and rights of the child. The relationship also applies in guaranteeing the human rights of every citizen. But adults can immediately claim the rights of the state without an intermediary. This is one form of vulnerability (Riyadi & Nurhidayat 2012).

Because children are still vulnerable to mistakes and are vulnerable to discriminatory treatment, children should also be protected. They still have a very high dependence on all child protection providers, parents, families, communities and governments, in this case as intermediaries for their rights. All child protection providers clearly have their own duties and functions that are mutually tied to each other under the definition of protection as their container. The form of child protection in a country is to provide a specific right and specific protection in a specific human rights regime as well (Fineman & Warthington 2009).

Various issues related to child protection also occur at the regional level such as in Palu City. Data on child protection issues in Palu City, as reported by various Regional Device Organizations; media; community leaders; education and community leaders; and civil society organizations, experienced an alarming change for years, both in terms of quantity and quality of problems. The increasing number of street children, neglected children, children exploitation victims, children facing the law, children who become victims of drug abuse and HIV / AIDS infected is proof that the response made by child protection is not enough (Dinas Pemberdayaan dan Perlindungan Anak 2017).

This happens because the lack of attention of the Palu City Government to the problems. Other causes can also be deduced because there has been no similarity of views on issues that result in different understanding of needs and models of handling. So it is indispensable role of Regional Government in doing protection and fulfillment effort of children rights. The protection and fulfillment of children rights is a mandatory business that must be done by Provincial and District / City Governments. Related to this, Palu City Government has made various efforts in implementing the protection and fulfillment of children's rights in various policies related to the fulfillment of the Rights of the Child, among others:

1. Mayor's Decree Number 490/261/DP3A/2017 regarding KLA Task Force Team of Palu City 2017-2020

2. Mayor's Decree Number 463/883/BKB-PP/2015 Regarding The Management of Nosarara Children Forum Palu Period 2015-2016.
3. Mayor's Decree Number 0836/242/BKB-PP/2016 Concerning The Integrated Community Based Working Protection Team of 2016

The main factors that make children vulnerable to various violations of rights, such as violence, exploitation, neglect, and other mistreatment, are the family. The family is the first environment in charge of protecting and fulfilling the rights of the child. Children who come from good families certainly will not be hampered in achieving the fulfillment of their rights. From there, the state is obliged to assist the family by making family education / care programs, such as parenting skills, child protection skills, the ability to increase children's participation in the family, and organizing counseling programs for children and families. It may also be necessary, if the state helps provide economic assistance. Therefore, if the family or a country fails to take responsibility for caring for and protecting the child, it is at risk of violence, exploitation, neglect, and other ill-treatment (UNICEF 2007).

In the international world, children's rights have been recognized as human rights. This recognition has marked the establishment of an international human rights law instrument by signing an international agreement, the Convention on the Rights of the Child (CRC). Then, Indonesia explicitly also provide recognition as stated in Article 28B paragraph (2) of the 1945 Constitution that developed into Law No. 23 of 2002 on Child Protection.

Although many have attached relevant laws as instruments of child protection, there are still issues related to the regulation of children rights laws. Therefore, an area such as Palu City should have a law in the form of a Regional Regulation that is able to accommodate all issues related to the protection of children especially concerning the Five Clusters of Child Rights in accordance with the Minister of Women Empowerment and Child Protection Regulation number 11 of 2011 on the policy of Child-FeasibleCity Development (Kementerian Pemberdayaan Perempuan dan Perlindungan Anak, 2011). Regional Regulations should also be able to provide services holistically and comprehensively, as well as giving mandate to institutions to conduct policy coordination and supervision explicitly. Regional regulations should also be able to open the involvement of non-governmental institutions, civil society and the private sector to play a broader role. Thus the formulation of this research problem is how the Local Government regulates the protection and fulfillment of children's rights in Palu City?

LITERATURE REVIEW

The law on child protection was first recognized in the international world beginning with the Convention on the Rights of the Child (CRC). The CRC or the United Nations Convention on the Right of the Child is an international convention that regulates the civil, political, economic, social and cultural rights of children. States that ratify this international convention are bound to implement it in accordance with international law. While its implementation is overseen by the Committee on the Rights of the Child of the United Nations (UNESCO & UNICEF 2007). Indonesia is also part of the country that ratified it. By that means, the state of Indonesia has the responsibility to implement these obligations as well as the leadership mandate in implementing the rules and mechanisms necessary to realize those obligations.

The form of implementation by the Indonesian government in realizing its obligations to the ratification of the CRC is with the enactment of Law No. 23 of 2002. The law becomes a reference to other regulations on the rights of children. The law also includes the rights of children, the protection of children, the obligations and responsibilities of parents, families, communities, governments and countries. That is the reference of legislation on the protection and fulfillment of children's rights in general. To provide protection and fulfillment of the rights of children especially in the regions, it needs something more specific, that is in the form of a Regional Regulation (Kementerian Perencanaan Pembangunan Nasional Republik Indonesia 2016).

The fulfillment of children's rights and protection in Indonesia itself has a significant relationship with SDGs or sustainable development goals or sustainable development in lieu of the MDGs that have ended (Buletin SEMERU 2017). SDGs with 17 programs apply to developed and developing countries, including Indonesia, for the next 15 years. 17 Global Goals in SDGs are no poverty of any kind anywhere in the world, no more hunger, achieving food security, nutrition improvement, and encouraging sustainable farming, good health and well-being, ensuring equitable distribution of education and increasing opportunities learning for everyone, gender equality, clean water and sanitation, clean and affordable energy. The issue of children must be included in the indicators of SDGs because if not then the purpose of this program until the year 2030 will not be achieved (Bappenas 2017).

The principle of implementing SDGs is *no one left behind* -nobody will be ignored. In the context of Indonesia where almost a third of the population is under the age of 18, the principle is very important for the development of the nation. SDGs will not be fully achieved if there are children living in poverty (1st goal), hunger and malnutrition (2nd goal), die at birth or under 5 years of age because they are not receiving health services or exposed to preventable diseases (goal 3), unable to complete education (4th goal), married under the age of 18 (goal 5), economically exploited (goal 8), and experienced violence or live in fear (goal 16). The third objective of SDGs is related to health aspects. Although Indonesia is at the top of the global average of declining child mortality and is considered successful enough in limiting the spread of infectious diseases, more efforts are needed to eliminate the incidence of maternal and child mortality due to the fact that the cause can be prevented. At the same time, changing urban lifestyle in Indonesia brings new challenges, namely the emergence of various non-communicable diseases in children and adults such as diabetes mellitus and heart disease.

In general, efforts to achieve SDGs for the educational and health aspects of children, especially in the age group 0-12 years, still face other challenges such as (i) 13.31% of children live below the national poverty line (about IDR 13,000 or US \$ 1 daily); (ii) about 27% of under-five years old children still do not have birth certificates-this will become a hindrance for children to be enrolled in school; and (iii) increased violence against children, including the continued existence of marriage at the age of the child (Bappenas 2017).

Furthermore, in the application of child protection, care should also be taken concerning ongoing childcare sessions covering primary stages (universal and child-family services), secondary stages (targeting specific groups of children and families at risk), and finally, tertiary stages (targeting children and families individually) (Purwadi, Halimatussa'diyah, Mahmud, Zaini, & Habibi 2017).

RESEARCH METHODOLOGY

The type of research used is qualitative research that focuses on field research to obtain primary data, but also required library research that serves to complete and support the data obtained in the field. If the types of data collected are secondary data as in normative legal research, then document studies are used as a means of data collection. Based on primary data and collected secondary data, the researcher will conduct assessment and analysis so that can be found special purpose of this research.

BRIEF DESCRIPTION OF PALU CITY

Geographical Condition

Palu City is the capital city of Central Sulawesi Province, located at 0°,36" - 0°,56" South Latitude and 119°,45" - 121°,1" East Longitude, with average of 0-700m above the sea level. Palu City occupy 395.06 km² of land amidst the Palu Valley, besides the Palu Bay. At 2016, Palu City consisted of 8 Districts: West Palu (8.28 km²), Tatanga (14.95 km²), Ulujadi (40.25 km²), South Palu (27.38 km²), East Palu (7.71 km²), Mantikulore (206.80 km²), North Palu (29.94 km²), dan Tawaeli

(59.75 km²). Palu City is bordered by Donggala Regency at north, west and east sides; Parigi-Moutong Regency at east side; and Sigi Regency at south side.

Ocupancy Condition

The population of Palu City is, based on 2014 population projection, 374,020 people, consisting of 188,017 male and 186,003 female population. Compared with the projected population of 2015, the population of Palu experienced 1.61 percent growth with each percentage of male population growth of 1.57 percent and the female population of 1.65 percent. Meanwhile, the sex ratio ratio of 2016 male population to female population is 101 which means that every 100 female population there are 101 male population or female population is relatively fewer than male population.

At the district level, East Palu has the lowest gender ratio of 98 percent. Meanwhile, the highest sex ratio was in Tatanga, Mantikulore and Tawaeli districts, 103 percent. Population density of Palu City in 2016 reached 947 people/ km² with the average number of 4 residents per household. Population density in 8 districts is quite diverse with the highest population density located in East Palu district with the density of 9,128 people/ km² and lowest in Kecamatan Mantikulore 304 people/Km². Meanwhile, the number of households grew by 1.61 percent from 2015.

The composition or age structure of the population of Palu City during 2016 shows that 24.76 percent of the population is below 15 years old, while 72.11 percent is in the age of the productive population (15-64 years) and 3.13 percent are in the age group of 65 years and above. This shows that the population of Palu City is in the *young age* group.

By looking at the comparison of the number of non-productive age population with the productive age population, it can be seen that the amount of dependency in 2016 is 38.67 percent means that every 100 productive age (15-64 years) peoples bear about 39 non-productive people (0-14 years and 65 years and above).

Social Condition

1. Education

Education facilities in Palu City registered at 2015/2017 shows that the number of elementary schools are 164 and Madrasah Ibtidaiyah (MI) is as many as 20 schools, 47 junior high-school and Madrasah Tsanawiyah (MTs) amounted to 24, 26 senior high-school and Madrasah Aliyah (MA) is as many as 11 schools, and vocational education level as much as 26 schools. (Source: BPS Kota Palu in Figures 2017)

Gross Enrollment Rate and Net Enrollment Rate for 7-12 years old reaches 38.946%, School Enrollment Rate for 13-15 years old is 20.2246%, School Enrollment Rate at the age of 16-18 years old is 22.715%. School Enrollment Rate is the ratio of the number of school-aged residents who are attending school with the whole population by the same age group in percent. (Data source: apkapm.data.kemdikbud.go.id, Data for 2017 data for Palu city).

2. Healthcare

Public health is one of the important factors in improving the quality of Human Resources (HR). Among several health measures available, the indicators used to see the progress of the health of the population are the Infant Mortality Rate (IMR) and Life Expectancy.

Infant Mortality Rate defined the magnitude of the possibility of dying before reaching the age of 1 year old (0-11 months). Infant mortality in 2016 reached 24 babies. While in 2017 infant mortality is 10 babies and 2 toddlers. (Data from Palu City Public Health Service in FGD on February 6 2018)

DISCUSSION

Palu, from 2013 until now, has formed a forum which aims to provide protection and fulfillment of children's rights namely Forum Anak Nosarara Kota Palu and the formation of 25 Children Forum in eight districts and 25 urban villages/sub-districts in Palu. The twenty-five urban villages/sub-districts in question are: Tatura Selatan, Birobuli Selatan, Kelurahan Baru, Talise, Kayumalue Pajeko, Besusu Barat, Kabonena, Pantoloan and others (Dinas Pemberdayaan dan Perlindungan Anak 2017).

As already mentioned, Palu is a city that is preparing to lead to decent children. Although in reality, there is still a lot of problems that occur in children in Palu. Some that still occur today are the conditions in which children are exploited, abandoned, and mistreated and abused. Uncertain economic conditions, quite dominate the violence that occurred in Palu City and surrounding areas. Data on cases of child abuse are also found in the violence between students or friends, namely the beating of children. There are also data on child sexual abuse. In addition to acts of violence, exploitation of children is the exploitation of labor to work to meet the needs of the household is very much happening. Other problems are still encountered, for example, there are still many street children abandoned in Palu City, dropping out and making money while they should learn and play is very much against the existing rules in Indonesia.

Such conditions are referred to as the problem of violence against children because they are in contrary to the universal principle of child protection. As in article 2 of the CRC (Convention on the Rights of the Child) mentioned that there is a non-discriminatory principle. But the problem of child labor exploitation is one of discriminative behavior. Then in article number 6 of the CRC mentioned the principle of the right to life. In this article relates to the problem of neglect of life and education of children. In that article, the state will guarantee the right to life and develop for children, including street children whose lives are abandoned in the streets and unable to finance their education (UNICEF 2006).

Below is a simple description of patterns of violence against children in Palu. Palu City Police documents and Integrated Service Center for Women and Children of Palu City found that the number of violence against children (Child Abuse) is 42 cases consisting of physical violence (maltreatment) amounted to 18 cases. Sexual harassment amounted to 16 cases, 3 cases of beatings and neglect of children 4 cases.

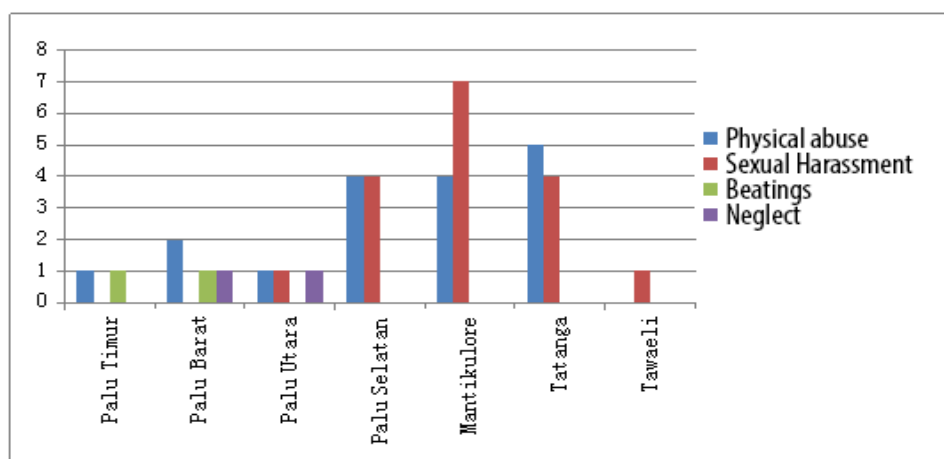


Figure 1. Violence against Children in Palu City 2017

Sexual violence against children in Mantikulore village is quite high, followed by Palu Selatan and Tatanga. Sexual violence patterns include sexual abuse, sexual harassment, rape, and children pregnancy. In addition, physical violence and child abuse are also quite high in the villages of

Tatanga, Palu Selatan and Mantikulore. Child beatings and neglect occurred in Palu Timur, Palu Barat and Palu Utara. (Dinas Pemberdayaan dan Perlindungan Anak 2017)

In the meantime, here is the last 3 years data that records violence against children, both children as victims and children as perpetrators:

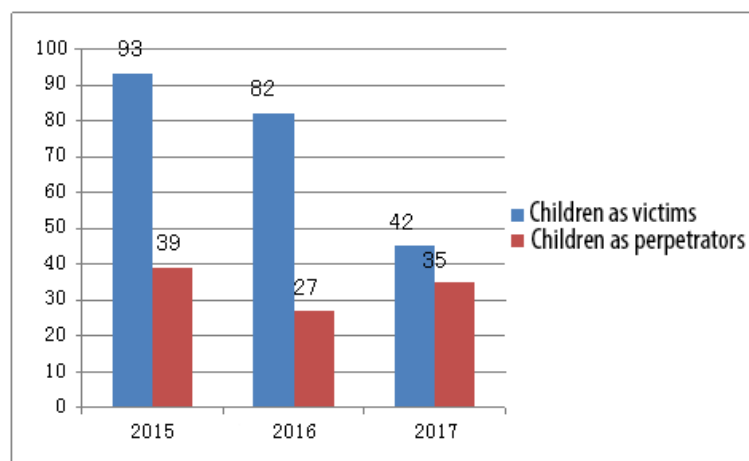


Figure 2. Data Table of Children as Victims / Perpetrators (Source: Department of Women Empowerment and Child Protection, Palu, 2018)

Meanwhile, in Palu city, there are also 3 child-friendly Community Healthcare Center (Puskemas), namely Mabelopura Community Healthcare Center in Tatura, Kamonji Community Healthcare Center in Kamonji, Pantoloan Community Healthcare Center on Trans Sulawesi Road based on Head of Health Service of Palu City Decree Number 441.8/17.51.a/Dinkes regarding Child-Friendly Community Healthcare Center (Dinas Kesehatan Kota Palu, 2017). There are 10 child-friendly school in 2017 based on the Head of Education Office of Palu City Decree Number 42:/2/3538/Pend regarding Child-Friendly School(Dinas Pendidikan Kota Palu, 2017).

In relation to civil rights and freedoms in accordance with the child-friendly city indicator, the table below shows that there are many children who do not have birth certificates, amounting to 39.621 children from 110.795 totals.

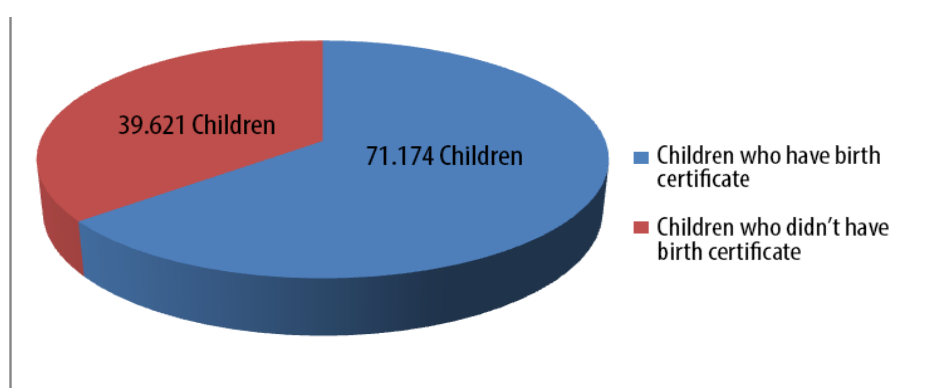


Figure 3. Children (aged 0-17) who have and do not have birth certificate. (Source: Department of Women Empowerment and Child Protection, Palu)

From the data and cases that occurred above, Palu City Government through the Department of Women Empowerment and Child Protection of Palu has done a quick response in coordination with the relevant regional government organizations. This has at least been representative of the implementation of the CRC even though it has not been fully achieved. One

of its applications is to launch a 12-year free school program for all children in Palu City. The application has fulfilled the concept of CRC, article 6, which is the right of the child to live and develop. Palu City Government also conducted socialization on child protection and prevention of domestic violence against children in cooperation with community leaders/organizations. Cases mapping, especially cases of children in conflict with the law by providing legal aid and/or lawyers who provide assistance to victims, providing safe houses for victims, and reaching to the cases reported to Department of Women Empowerment and Child Protection of Palu.

CONCLUSION

Palu city is a city that is experiencing rapid development. With the development of the city, also come social problems. These problems affect the lives of children in Palu. The data states that cases of child problems in Palu are increasing in quantity and quality. So it is necessary to hold a protection of rights for children. The fulfillment and protection of children's rights has become and is recognized as a human right in Indonesia, starting from the ratification of CRC by the Indonesian government. For its implementation, the Indonesian government, through the Department of Women Empowerment and Child Protection of Palu City, took a role in coordination and advocacy of its implementation at the national and regional levels, in accordance with its duties and functions.

Therefore, the city government of Palu has a basis for making a local regulation to protect children's rights. The regulation is structured as a normative reference that guide the integration of all government and community resources, so that the implementation of child protection in Palu City can quickly shift from responsive, sporadic, discontinuous and fragmental ways into more systematic ways, giving great weight to prevention and integrative services.

The commitment of the Palu City government to give high priority to the welfare of children's fulfillment and protection is a strategic and long-term investment decision. What the Palu City government should do is to carry out that commitment into a system of child protection through planned, systematic, and measurable efforts.

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