

# The Fulfillment of the Need for the Right of Formal Education to Children in Conflict with the Law as Efforts to Realize the Prosper City for Children in Surakarta

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The phenomenon of children in conflict with the law has always been a hot topic in society and headline news in a variety of media. The society believes that children in conflict with the law deserve to be placed in prison as punishment for the crime that has been committed. As a city that appointed is a pilot project of the proper city for children, Surakarta considered able to solve the various problems and seeking protection for a child. The aim of this research is to find out form of education that can be accepted by children in conflict with the law and the role of stakeholders (the city government and civil society) to meet the needs of formal education for children in conflict with the law. This research is using circumstantial analysis case study approach with the kind of research under descriptive qualitative. Technique of taking samples is by purposive sampling and snowball sampling. Data collection techniques used is in-depth interviews, observation and study of documentation. The validity test of the data used, triangulation of data and methods. Analysis techniques using interactive data analysis model Miles & Huberman consisting of four stages is collecting data, reduction of data, interpretation of data, and draw conclusions. The results showed that for children in conflict with the law, formal education received still limited to the national examination and non formal education in the form of spiritual education. The fulfillment of the need for the right of formal education to children in conflict with the law in Surakarta as the proper city for children more done by NGO networking through PT PAS. The role of stakeholders in the handling of children in the conflict with the law in the proper city for children make final award of the

dominant criminal prison which led to abandonment of children's rights, particularly in the field of formal education.

Keywords: formal education, children in conflict with the law, the proper city for children

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## **ABSTRAK**

Fenomena anak yang berhadapan dengan hukum (ABH) marak menjadi bahan perbincangan masyarakat dan headline news di berbagai media. Masyarakat meyakini bahwa ABH layak untuk ditempatkan dalam penjara sebagai hukuman atas tindakan kriminal yang telah dilakukan. Sebagai kota yang ditunjuk menjadi percontohan Kota Layak Anak (KLA) maka Surakarta dianggap mampu menyelesaikan berbagai persoalan dan mengupayakan perlindungan bagi anak. Penelitian ini bertujuan untuk mengetahui bentuk pemenuhan kebutuhan pendidikan yang dapat diakses oleh ABH dan peran stakeholder (pemerintah kota dan LSM pemerhati anak) dalam mengupayakan pemenuhan hak kebutuhan pendidikan formal bagi ABH. Penelitian ini menggunakan pendekatan studi kasus analisis situasional dengan jenis penelitian diskriptif kualitatif. Teknik pengambilan cuplikan dengan purposive sampling dan snowball sampling. Teknik pengumpulan data yang digunakan adalah wawancara mendalam, observasi dan studi dokumentasi. Uji validitas data yang digunakan yaitu triangulasi data dan metode. Teknik analisis menggunakan model analisis data interaktif Miles & Huberman yang terdiri dari empat tahapan yaitu pengumpulan data, reduksi data, interpretasi data, dan penarikan kesimpulan. Hasil penelitian menunjukkan bahwa ABH, pendidikan formal yang diterima masih terbatas pada pelaksanaan Ujian Nasional (UN) dan pendidikan non formal berupa pendidikan rohani. Pendidikan non formal berupa ketrampilan dan pelatihan kerja dari Bapas diterima oleh ABH yang sudah memperoleh pembebasan bersyarat atau cuti bersyarat. pemenuhan hak pendidikan formal bagi ABH di Surakarta sebagai Kota Layak Anak (KLA) lebih banyak dilakukan oleh LSM Pemerhati Anak melalui jejaring kerja PT PAS. Peran stakeholder dalam penanganan ABH di KLA menghasilkan putusan akhir dominan pidana penjara yang menyebabkan pengabaian hak-hak anak, khususnya di bidang pendidikan formal.

**Key words:** pendidikan formal, anak yang berhadapan dengan hukum, kota layak anak

## **Introduction**

Various cases of children in conflict with the law lively discussion and community became headline news in various media indicate that during this children in conflict with the law rated had broken the law and norms that exist in society. The community is likely to hand over the handling of children in conflict with the law to law enforcement so that hundreds of thousands of children in conflict with the law, over 60% imprisonment merit punishment (Hadi Supeno, 2010: 70). The number of children in conflict with the law in Lembaga Pemasyarakatan dan Rumah Tahanan (Rutan), Jawa Tengah in 2010 reached 324 children (Rofiuddin, *TEMPO.com*, 23 Juli 2010). Meanwhile, according to the Balai Pemasyarakatan Kota Surakarta, number of children in conflict with the law in 2010 by as much as 43 children, as many as 50 children in 2011 and 2012, as many as 29 children.

Children in conflict with the law includes in the category children in need of special protection that require more attention in the fulfilment of their rights. However, there is still a lot of practices, a violation of the rights of the child during his status as children in conflict with the law and afterwards. The form of neglect over the rights of a child at children in conflict with the law the most evident of situated on the problem of education. Based on the results of monitoring and mentoring done by ATMA Foundation over 70% of ABH originally belonging as the student forced could not complete his education (drop out) (Suara ATMA, 2011: 3). Schools tend to shed responsibility and feel unable to educate the students involved case law so as to take steps to return a child on the parents.

National education systems should be able to guarantee to education for all, no exception for children in conflict with the law. As a city that appointed be a pilot project of the proper city for children, Surakarta considered able to solve the various problems and seeking protection for a child. Fair access education for every child, especially abh is a necessity if we want Indonesian children grow as aspired to in the Children's Rights Convention.

### **Research Questions**

The study shall answer the following questions:

1. How the form of the fulfillment of the needs of education that can be accessed by a child at while still status as?
2. How the form of the fulfillment of the needs of formal education received a child after he did not status as children in conflict with the law?
3. How is the role of stakeholders (the city government and civil society) to meet the needs of formal education for children in conflict with the law

### **Literature Review and Theoretical Issues**

The concept of children in conflict with the law own dates from the presence of the concept about brat in accordance with Undang-Undang No. 3 Tahun 1997 tentang Pengadilan Anak. The term children in conflict with the law emerged as the perspective of children's rights began to many understood characterized by the existence of Undang-Undang No. 23 Tahun 2002 tentang Perlindungan Anak. Pasal 2 Undang-Undang No. 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak

mention that, “Anak yang Berhadapan dengan Hukum adalah anak yang berkonflik dengan hukum, anak yang menjadi korban tindak pidana, dan anak yang menjadi saksi tindak pidana (Children against the law are children in conflict with the law, children who are victims of criminal acts, and children who witness criminal action)”. This research focused on children against the law as of an offender or children in conflict with the law. So children in conflict with the law referred to in research is abh is children deliberately or not, have to deal with law, either as victims, witnesses nor offender (were in conflict) with the law.

Referring to the UN children's Rights Committee, children in conflict with the law is included in one of the children in need of special protection that require special handling. The phenomenon of children in conflict with the law children in conflict with the law in society can't be separated from the role of social fact in forming individuals in public. Social facts underlying everything is the way to act, think, and feel the individual based on something that exists outside of himself, is forced and the public. The rule of law and morals is one of social facts that exist in society. The rule of law and morals were able to force any individual to act, think, and feel based on agreements that apply generally. It will actually look real when individual trying to fight it (Taufik Abdullah & A.C. Van Der Leeden, 1986: 29). The rule of law and a moral force in society will provide reaction in the form of sanctions against any individual who seeks to fight.

According to Durkheim, mechanical solidarity society, social solidarity is important to bind individuals at collectivity. Various types of a violation of a norm in community solidarity mechanical became intolerable. Repressive laws set up by the community thus ultimately impacting pemidanaan (deprivation of liberty).

Meanwhile, when developing increasingly complex society due to industrialization, community solidarity mechanical start shifted toward community solidarity organic. The changes characterized by shifts society of communal division of labor and toward individual (job speciality). The community became apathetic towards the social environment surrounding it. According to Durkheim, if a society develops from the communal to the modern individual, then the proximity between individuals required individuals to continue a set of general norms will degenerate (Nandang Sambas, 2010: 122).

Table 1. Differences in The Concept of Brat with a Children in Conflict with The Law

	<b>Brat</b>	<b>Children in Conflict with The Law</b>
<b>Age</b>	8-18 years	12-18 years
<b>Position of the child</b>	Perpetrator	Victims
<b>Causal Factor</b>	From themselves	From outside (the environment)
<b>Perspective of Children's Rights</b>	Was yet	Already have
<b>Handling</b>	Jail	Restorative Justice (RJ)
<b>Legal Basis</b>	Undang-Undang No. 3 Tahun 1997 tentang Pengadilan Anak.	Undang-Undang No. 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak.

(Source: various books tillable)

Changes in the community of the individual towards the community this is what causes the onset of normallessness, lessens social control, social monitoring and control mengendornya, which effect on the moral deterioration so that individuals are difficult to adjust to the changes the norm (Nandang Sambas, 2010: 121-122). This condition is referred to as anomie, social conditions in the absence of regulation in a society that values individuality isolated and did not want to tell people about what needs to be done so that the individual be lack of moral restraint (Ritzer & Goodman, 2010: 95). In addition to the anomik Division of labor, modern societies also tend to do a forced division of labor and coordinated with the bad in people. Traditions, economic power or status could be a more decisive position of a person, as well as special functions undertaken by different people is not set properly (Ritzer & Goodman, 2010: 95-96).

Specifically of fundamental rights children described in Pasal 4 Undang-Undang No. 23 Tahun 2002 tentang Perlindungan Anak include the right to life, perlindungan, grow and participate. Views and thoughts about the fulfillment and protection of children's rights demand that adults (biological parents, Government, public) responsible for any child who was born by anyone and wherever (Hadi Supeno, 2010: 27).

In the case of children in conflict with the law, education is one of the fundamental rights of the vulnerable, neglected the number of children in conflict with the law from year to year are increasing much. Therefore, in 2012 concern about the rights of education for children in conflict with the law getting improved. Parents and community are required to create a condussive educational environment as part of the prevention of children being children in conflict with the law (Marlina, 2012: 18-19). The government refers to Undang-Undang No. 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak ensure any children in conflict with the law receive education. In the framework of the implementation of the development proper city for children, governments city of Surakarta published Peraturan Daerah No. 4 Tahun 2012 tentang Perlindungan Anak ensuring children's rights in education in Pasal 13 b mention that, “Setiap penyelenggara pendidikan dilarang mengeluarkan anak dari lembaga pendidikan tanpa adanya jaminan terhadap keberlasungan pendidikan anak (Every educational institution be barred from issuing a child from the educational institution without any assurance against education child next)”.

Nevertheless, a large number of children in conflict with the law were unable to continue his education. Non-formal education can be a perfect solution to accommodate the educational needs of children in conflict with the law. Non-formal education can serve to replace formal education through the education equality (Paket A, Paket B dan Paket C). Non-formal education for children in conflict with the law also functions to provide skills through course and training useful as victuals looking for jobs.

Therefore, develop a collective consciousness to improve corporate social responsibility between individuals who began to shift as a result of the changes that occurred in the community became very important. The division of labor anomik, imposed, and a less than perfect coordination of the specialization of work must be addressed in order to be moral and social functioning as the unifying force (Ritzer & Goodman, 2010: 96). The goals of modern society are to create social relations further fair and ensure forces are socially beneficial can develop freely (Durkeim, 1893/1964: 387 in Ritzer & Goodman, 2010: 96). Ideals justice for modern society is part of common awareness to ensure a better life.

Protection for children in conflict with the law got done with its effort to jail as the final path. If the legal process continues then protection against them can done by community-based or in legal parlance called diversi and restorative justice (RJ). The aim is to restore the relation between victim and perpetrator based on values that acts with make a deal through communication between children in conflict with the law and the victims and their family involving the experts, society, community leaders, leaders custom, as well as handling child cases must is part of the prevention of children being conflict with the law (Marlina, 2012: 18-19). Expected regulation and protection policy by integrating the children's rights perspective need to be developed by each of the stakeholders, government, NGO, families and communities. Including through the completion of the cases to restorative justice, realization of the resilience of families and the social environment that is conducive for the child. Cooperation of the various elements are expected to be able to realize the fulfillment of the right to formal education requirements for children in conflict with the law.

### **Research Methodology**

This research using circumstantial analysis case study approach with the kind of research under descriptive qualitative to describe the social situation experienced by children in conflict with the law, form of education that can be accepted by children in conflict with the law and the role of stakeholders (the city government and civil society) to meet the needs of formal education for children in conflict with the law in Surakarta as proper city for children (Burhan Bungin, 2011: 239). The source of the data used in this study consists of primary data and secondary data. Primary data in this research was obtained through in-depth interviews with informants. Secondary data used in the study was obtained from observation and study of documentation. Researchers took samples with purposive sampling to determine informants, namely Bagian Perlindungan Anak di Bapermas PP, PA, dan KB, Dinas Pendidikan, ATMA Foundation, and Balai Pemasarakatan (Bapas). Researchers took samples with snowball sampling to determine informants, namely children in conflict with the law and his family based on the information provided by



the ATMA Foundation. Data collection methods used in this research is the interview, observation and study of documentation.

#### 1. Interview

Types of interviews are in-depth interviews so researchers obtain an overview of educational form received by children in conflict with the law and the role of stakeholders in the efforts of fulfillment of formal education for children in conflict with the law.

#### 2. Observation

Observation methods used in this research are anecdotal record general descriptions type to take note of behavior that is distinctive, unique and important of an informants (Haris Herdiansyah, 2010: 133).

#### 3. Study of Documentation

Researcher review documentation in the form of statistical data related children in conflict with the law of various institutions.

Researchers used a model of interactive data analysis Miles & Huberman to analyze data research findings (Miles & Huberman, 1992: 20). Researchers collect data with interviews, observation and study of documentation, then processed through recording, editing and compiled in the form of a narration (Basuki Haryono, 2008: 61). Data that is not valid and is not required to display the filtered data and draw conclusions. Data that has been selected and screened categorized by issues of research. Researchers further draw final conclusions based on data that have been displayed according to the research questions.

### **Results of The Research**

According to the the traditional society views the act of naughty child is because the temper of children is that stubbornly and hard arranged. Penalty will be given for every individual who violate. This repressive legal system applies to brat. The act of breaking the law to a child anything shaped must be punished. Brat deemed to have been doing of an act forbidden for children harm to others and must be punished to be responsible for that he did. Imprisonment is considered appropriate for handling unruly children. Thus, brat positioned guilty and must be separated from its surroundings as a form of punishment for their deterrent effect.

Imprisonment carried out by rogue realized as part of an effort to punish the act of the child. Treatment received brat during her imprisonment that is inversely proportional to the treatment in the family environment and community is considered as a way to keep children regretted his actions. In addition, the rogue will also continue to get bad stigma from society. During his life will be seen as mischievous child inmates so that although imprisonment has been completed, the treatment of discrimination and isolate the child will continue to be done.

Along with development of societies become increasingly complex due to industrialize and technological advances, occurring massive changes in relation between individuals. According to Durkheim, modern society so maintained together by specialism people and the need for services is increasing, even of specialization not only on the individual level, but groups, structure, and institution (Ritzer & Goodman, 2010: 92). Consequently society is becoming indifferent.

In communities that have specialized allows various institutions working to build social ties. Differentiation its work there divide the role of each stakeholders so as to achieve cooperation to work on social justice in our society. Handling children in conflict with the law in modern society an unspecialized on the institutions in the responsibility of interlocking and sustainable. Handling children in conflict with the law started from Kopolisian, Bapas, Bapermas, Kejaksaan, Pengadilan until Lapas. Nevertheless, imprisonment is a last alternative for the child.

The phenomenon of children in conflict with the law in modern society the result of changes society of mechanical to organic, society divided into groups in the absence of a set of rules bind collectively (Nandang Sambas, 2010: 122). Based on data interview and observation, causes cause of the child to be in conflict with the law are a result of helplessness family economy, progress information technology and the environment around children not followed by an ability to supervision and control social of adults in around the child.

According to data from Balai Pemasarakatan (Bapas) Surakarta during the last three years shows the number of requests of Penelitian Kemasyarakatan (Litmas) for children in conflict with the law from Bapas. In 2010 the request of Litmas Bapas as one of the appendages of for the purposes of the investigation reached 43 children. That number increased in 2011, which totaled 53 children, while in 2012

until the month of November the number of as many as 23 children in conflict with the law Litmas children with gender male. Other Data based on counselling done by foundation atma in 2012 amount abh reached 51 children. They were all male-sex with the most cases of theft.

In fact on the handling of children in conflict with the law, division of labor imposed and coordinated badly affect the rights of children are not fulfilled. In terms of education, the family burdened duty to educate a child as a whole. Society was charged with duty to create a social environment conducive for growing child. Meanwhile, the school is responsible for providing education to children as provision of life, ranging from the aspect of cognitive, affective, and psychomotor children. The third institution must be able to coordinate efforts in education. Nevertheless encountered in modern society is just the opposite. Differentiation of work resulted in the respective institutions feel its role is limited by the role of the other institutions.

Informal education received children in conflict with the law relies heavily on the condition of the family and social environment around the child. Family unharmonious causing propinquity child with the parents to be reduced so that it can trigger the onset of socialization are not perfect. As a result, children vulnerable affected perform actions violating the norm, either due to the influence of peers as well as adults.

Thereafter the responsibility of education is delegated to the school. School on the other side of the learning material and teaching children character education, but also limited to charge, the hour, and orientation value. School as an educational institution also have the power to choose students and applying regulation itself. Discrimination like this goes on and considered beseem. Even when students in a school must conflict with the law, then school feel that child must be returned to parents or referred to move to other schools. School feel no longer able to to educate a child that has been assumed defame school.

Formal education can be received by ABH are still very limited. Formal education received by ABH are categorized into four, namely:

1. Children in conflict with the law who are undergoing criminal proceedings, investigation and court examination, whether detained or unable to access formal

education if the case law unknown by the school or schools has perspective the rights of children.

2. Children in conflict with the law who were based on the verdict of the judges undergo a criminal (anak pidana) or handed over to state for educated (anak negara) or at the request of the parent or his guardian obtains a court assignment to be educated (anak sipil) in Rutan Receive service formal education in the form of the national examination.
3. Children in conflict with the law as anak pidana and anak negara who gets parole or furlough are conditional access to formal education and moved to a school that has had the perspective of the rights of the child.
4. Children in conflict with the law as anak negara who had returned to the parent or guardian or turned over to foster parents or social entities are able to access formal education if the case law is not known to the school or schools have had the perspective of the rights of the child.

Non formal education in the form of skills and job training from Bapas received by children in the conflict with the law who already received a conditional parole or furlough. After the child not status as children in the conflict with the law, they can follow formal education in schools that have a view of the rights of the children or they can follow equality education in Kejar Paket.

In some cases, children in the conflict with the law often received treatment unpleasant from the people around. Form deeds unpleasant received generally are discrimination and violence. Violent received be either violence verbal and non verbal. Forms of violence often received are insinuations or derision, but in a case children in the conflict with the law even got physical violence, like a hit.

The community felt that the task of advising and giving education on children's rights of parents. When know that there is a child who steals the public not to admonish and advise, but leave it to the police as the authorities punish. If the three main pillars of education always bestow children in the conflict with the law case then the next handling of children in the conflict with the law is going into mechanism system differentiation stakeholders.

Therefore, it is important to develop morality and social solidarity through the integration of child rights perspective to realize social justice in society. Public

education should be increased, as the government plans to realize the proper family for children. Family expected to fulfill the son of love and love shelter, the need for guidance needs to be recognized as a person, and the need for appropriate disciplinary (Drost, 1998: 70).

Surakarta has the potential to develop into a better handling of the children in the conflict with the law, including through Pusat Pelayanan Terpadu (PPT), handling of the children in the conflict with the law in the Kelurahan level to restore the relationship between the victim and the perpetrator at the community level. PPT is part of program to develop proper city for children by stakeholders and NGO networking through PT PAS (Pelayanan Terpadu Perempuan Anak Surakarta). Problems are resolved as far as possible outside of the judicial process, to perform the construction and rehabilitation by involving experts, the public, community leaders, and indigenous people, as well as the handling of the case of the child must be a part of the program prevention of children being conflict with the law (Marlina, 2012: 18-19). If problems remain followed up by law enforcement officials, then each institutions should be able to work together to implement a Retorative Justice (RJ).

The practical implications that can be applied is to build awareness of each institutions to be involved in the handling of children in the conflict with the law, including through Pusat Pelayanan Terpadu (PPT) in the Kelurahan level to support the development of proper city for children. Expected handling of ABH can be done by community-based in order to minimize devolving cases to law enforcement. All stakeholders must also cooperate with the developing perspective of children's rights so that if the case were handled by stakeholders then the implementation of Restorative Justice (RJ) always take precedence, either by law enforcement officials, Bapermas PP, PA, dan KB, and Education Department. Thus, the rights of children particularly in education fulfilled.

## **Conclusion**

For children in conflict with the law, formal education received still limited to the national examination and non formal education in the form of spiritual education. Non formal education in the form of skills and job training from Bapas received by

children in the conflict with the law who already received a conditional parole or furlough. The fulfillment of the right to formal education for children in conflict with the law is still less attention from stakeholders because not yet understood the perspective of children's rights in each regional officials. The fulfillment of the need for the right of formal education to children in conflict with the law in Surakarta as the proper city for children more done by NGO networking through PT PAS.

Therefore, it is important to develop morality and social solidarity through the integration of child rights perspective to realize social justice in society. Thus, the rights of children particularly in education fulfilled.

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