

The Essence and Principles of Fostering Child Prisoners: Case Study of Prisons in Southeast Sulawesi Province

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ABSTRACT: This study aims to determine the essence of and the implementation of fostering child prisoners is serving a period of detention at prisons in Southeast Sulawesi Province and the factors that influence it. The type of research used is normative legal research which is descriptive qualitative in nature. Data collection techniques used in this study were interviews and literature study. The data analysis technique used is quantitative data analysis techniques. The results show that the essence of fostering child prisoners is serving sentences in prisons in Southeast Sulawesi Province is based on principle of protection, principles of equal treatment and service, principles of education, principles of development, principle of loss of independence, principles of relating to families, and principle of respecting human dignity. Furthermore, the implementation of fostering child prisoners includes personality development and independence development has not been maximally implemented. As for factors affecting the implementation includes legal substance factors, law enforcement factors, facility and infrastructure factors, public awareness factors, and community cultural factors. it can be assessed that the affecting of factors in the fostering of child prisoners has been effective.

KEYWORDS: Child Prisoners, Essence, Fostering, Principles, Prison.

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I. INTRODUCTION

Legal protection for children, as based on Article 28B section (2) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as The 1945 Constitution), which regulates that “*every child has the right to live, to grow and to develop, and has the right to protection from violence and discrimination*”.

Legal protection for children is not only carried out for children who are victims, but also for children who are in conflict with the law. It takes cooperation from various parties, especially from law enforcement officials and other stakeholders in the implementation of the process of protecting the law for children in Indonesia (Thalib, Rahman, & Semendawai, 2017).

Children who violate norms based on the context of community life and are in conflict with the law are called naughty children. For these naughty children, they can be subject to punishment or sanctions in the form of acts or criminal acts if proven to have violated the criminal law in accordance with the Law of the Republic of Indonesia Number 11 of 2012 on the Child Criminal Justice System (hereinafter referred to as Law No. 11 of 2012).

Juridically, based on Article 1 number 2 of the Law No. 11 of 2012, explain that “*children who are dealing with the law are children who are in conflict with the law, children who are victims of crime, and children who are witnesses of criminal acts*”. Furthermore, based on Article 1 number 3 of the Law No. 11 of 2012, explain that “*Children in conflict with the law, hereinafter referred to as children, are children aged 12 (twelve), but not yet 18 (eighteen) years old, who are suspected of having committed a criminal act*”.

Meanwhile, Article 37 section (b) of the United Nations of 1989 on Convention on the Rights of the Child (hereinafter referred to as CRC), regulates that:

“*States Parties shall ensure that no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.*”

Furthermore, based on Article 37 section (c) of the CRC, regulates that:

“*States Parties shall ensure that every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.*”

From the Prison Database System in Indonesia, there are 2,338 children in conflict with the law. As for distribution, East Java Province ranks the top with 281 child prisoners; 209 child prisoners in Lampung Province; 180 child prisoners in North Sumatra Province; 174 child prisoners in South Sumatra Province; 165 child prisoners in South Sulawesi Province; up to 36 child prisoners in Southeast Sulawesi Province.

Based on the description and pre-research above, there are still several prisons that place child prisoners together with adult prisoners, although they are differentiated according to blocks. This condition is very vulnerable for child prisoners, considering that it can have a psychological impact and place child prisoners as victims of violence from adult prisoners. Therefore, strong attention and efforts are needed to minimize the risks that can be experienced by child prisoners who are serving their period of detention.

II. STATEMENT OF THE PROBLEM

1. What is the essence of fostering child prisoners is serving a period of detention at prisons in Southeast Sulawesi Province?
2. How is the implementation of fostering child prisoners is serving a period of detention at prisons in Southeast Sulawesi Province?
3. What are the factors that influence the implementation of fostering child prisoners is serving a period of detention at prisons in Southeast Sulawesi Province?

III. THEORETICAL FRAMEWORK

A. Theoretical Basis

1. Rule of Law Theory

The idea of a rule of law has emerged in various forms in different legal systems. Historically, there are two terms or concepts that are very influential in the world regarding the idea of a rule of law, namely the *rechtsstaat* concept that developed in Continental Europe (XIX century) and the concept of a rule of law that developed in Anglo-Saxon. These two concepts are related to the typology of the state in relation to the relationship between the state (government) as the governing party (controlling) and citizens as the party being governed (Fadjar, 2003). According to Fuady (2011), that:

“The rule of law concept is not only elastic but also dynamic. It is said to be elastic because a country, although totalitarian, still contains a grid of rules of law. It is said to be dynamic, because the concept of a rule of law is not final, but still half-finished, and continues to change according to the development of human thought and conception of the life of the nation and society.”

According to Prasetyo&Purnomosidi (2014), that:

“The rule of law is a country characterized or based on the values and identity contained in Pancasila, including a belief in the One and Only God, just and civilized humanity, the unity of Indonesia, and democratic life led by wisdom of thoughts in deliberation amongst representatives of the people, and achieving social justice for all the people of Indonesia. The characteristics of the state administrators Pancasila are divinity, kinship, mutual cooperation and harmony.”

According to Mochtar (2009), that:

“The concept of a rule of law in Indonesia is the constitutional state of Pancasila which essentially has three principles, namely the principle of harmony, the principle of obedience, and the principle of mutual understanding which reflects the philosophical values of Pancasila, renewal, replacement, implementation and enforcement of laws.”

2. Legal Protection Theory

Legal protection of the rights of citizens in a place is a must because it is an inseparable part of human rights, as stipulated in the constitution and international human rights instruments that have been ratified by the government. As a concept of human rights it has a very broad meaning, considering that human rights issues are universal, not limited to the fields of the state, politics, economy, social, culture and law. As a gift, human rights are basic rights given by God Almighty to mankind regardless of differences in social, cultural, political and economic backgrounds. According to Fitzgerald (1966), that:

“Salmond’s theory of legal protection explains that law aims to integrate and coordinate various interests in society because in the traffic of interests, protection of certain interests can only be done by limiting various other interests.”

According to Rahardjo (2000), that:

“The interest of law is to protect human rights and interests, so that the law has the highest authority to determine human interests that need to be regulated and protected.”

According to Hadjon (1987), that:

“Protection is given to legal subjects in the form of legal instruments, both preventive and repressive in nature, both written and unwritten. Protection as an illustration of the function of law aims to provide justice, order, certainty, benefit and peace.”

According to Lotulung (1994), that:

“Each country has its own ways and mechanisms on how to realize legal protection and the extent to which legal protection is provided.”

3. Criminal Theory

Criminalization is the most important part of criminal law, as according to Ashworth (1991), that:

“Criminalization is the culmination of the entire accountability process for a person proven to have committed a criminal act.”

According to Huda (2006), that:

“Mistakes not only determine the responsibility of the maker, but also the confidence of the maker. The mistake in question is self-introspection.”

This means that a person can be subject to criminal sanctions because of his past actions. Meanwhile, the mistake that determines the guilty verdict for the perpetrator is seeing his future.

According to Hamzah (1993), that:

“The issue of criminal enforcement is very important in criminal law and criminal justice. This is because criminal enforcement is a tangible form of criminal regulation in abstract law. In addition, judges will have tremendous discretion about how long prison terms will be imposed on the accused.”

According to Arief (2002), that:

“There are two main conditions in punishment, namely the principle of legality and the principle of guilt, in other words, crime is closely related to the main points of thought about criminal acts and criminal responsibility.”

Meanwhile, criminalization of children is intended to improve the attitude or behavior of the convicted person and vice versa, punishment is also intended to prevent other people from committing the prohibited act. This view is said to be forward-looking and at the same time has a character of deterrence.

4. Correctional Theory

This theory was first put forward by Sahardjo which aims to change the development orientation of the prisoners. This is due to his experience of visiting various prisons in Indonesia where the conditions of prisons are classified as very bad. It takes the principles of the penal system to help uphold and protect the rights of prisoners. Furthermore, correctional theory also aims to re-instill social values in prisoners, so that when they return to society, prisoners can become good citizens and useful for others or in short it is called resocialization. This was triggered by Suhardjo who stated that the purpose of giving punishment was not only to punish or torture the perpetrator, but to guide him to become a useful citizen for his social environment (Dipradja&Atmasasmita, 1979).

5. Law Enforcement Theory

One of the functions of law is as a tool to protect human interests. The effort that must be made to protect human interests is that the law must be implemented properly. Law enforcement can take place peacefully, normally, but it can also occur due to law violations. In this case, the law that is violated must be enforced, and it is hoped that in enforcing the law the law will become a reality. According to Rahardjo (2009), that:

“The law is made to be enforced, the law is no longer called law if the law has never been implemented. Thus, a law can be said to be in line with the legal definition if it has been implemented.”

According to Soekanto (2003), that:

“Law enforcement that rests on conceptual, essence, and meaning lies in the harmonization of value relations as outlined in solid principles and attitudes. This value must also be realized as a series of descriptions of final values and in the framework of creating and maintaining social peace.”

6. Theory of Factors Affecting the Law

The theory of factors affecting law enforcement as put forward by Soekanto (2003) states that there are 5 things that affect law enforcement, namely:

1) Legal factors or statutory regulations

There may be a mismatch between laws and regulations regarding certain areas of life. Another possibility is that there is a mismatch between statutory regulations and unwritten law or customary law, sometimes there is a mismatch between registered laws and customary law and so on.

2) Law enforcement factors

The mentality of the parties who form or apply the law. Law enforcement officials include judges, police, prosecutors, lawyers, prison officials and so on. If the law is good but the mentality of the person in charge of law enforcement is not yet solid, it can cause disruption of the legal system itself.

3) Facility factors

If the law is good and the mentality of those in charge of law enforcement is also good, but if the facilities are not adequate, then the law cannot go according to plan.

4) Community factors

The community factor in question is public awareness of the existing law.

5) Cultural factors

Culture produces works, creations, and feelings based on human initiatives in their social life. Furthermore, the law must integrate with existing cultures, so that everything works well.

B. Overview of Children

1. Definition of Child

The definition of children in relation to children's delinquency behavior is usually done based on their age level, in the sense that at what age a person can be categorized as a child (Hadisuprpto, 2010).

The definition of children in the legal field as in civil law is closely related to the notion of maturity. However, there are still differences in understanding between several laws and regulations, including:

a. Article 330 of Colonial Regulations, *Staatsblad* Number 23 of 1847 on the *Burgerlijk Wetboek voorIndonesie* (BW)/the Civil Code, explain that:

"Minors are those who have not reached the full age of twenty one years and who have not previously entered into matrimony. If a marriage is dissolved prior to the spouses having reached the full age of twenty one years, they shall not regain the status of a minor."

b. Article 7 section (1) of Law of the Republic of Indonesia Number 16 of 2019 on Amendment to Law Number 1 of 1974 on Marriage, regulates that:

"Marriage is only allowed if the man and woman have reached the age of 19 (nineteen) years."

This means that someone under 19 years of age is still considered a child.

c. Article 1 number 2 of Law of the Republic of Indonesia Number 4 of 1979 on Children's Welfare, explain that:

"A child is someone who has not reached the age of 21 (twenty one) years and has never been married."

d. Article 1 of the CRC, explain that:

"For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier."

e. Article 1 number 1 of Law of the Republic of Indonesia Number 1 of 2000 on Ratification of ILO Convention Number 182 on the Prohibition and the Immediate Action for the Elimination of the Worst Forms of Child Labour, explain that:

"For the purposes of this Convention, the term child shall apply to all persons under the age of 18."

f. Article 1 number 1 of Law of the Republic of Indonesia Number 17 of 2016 on Enactment of Government Regulation in Lieu of Law Number 1 of 2016 on the Second Amendment to Law Number 23 of 2002 on Child Protection Becoming Law (hereinafter referred to as Law No. 17 of 2016), explain that:

"A Child shall mean a person under eighteen (18) years of age, including unborn."

2. Children in Conflict with the Law

Children in conflict with the law is based on Article 1 number 3 of the Law No. 11 of 2012 which has been previously mentioned. The word conflict shows a mismatch between what should be and what comes from an event, so it can be said to be a problem. Therefore, the definition of a child in conflict with the law can also be interpreted as a child with problems due to actions that are against the law (Herawatiningsih& Natura, 2015). Furthermore, the child is deemed incapable of being responsible for his actions, given his immature age so that child prisoners have the right to be protected in accordance with the Law No. 11 of 2012.

Delinquency committed by children is a form of uncontrolled mental growth, without any intention to harm others as implied in Article 44 section (2) of Law of the Republic of Indonesia Number 1 of 1960 on the

Criminal Code (hereinafter referred to as Law No. 1 of 1960), regulates that “not punishable shall be the person who commits an act for which by reason of the defective development or sickly disorder of his mental capacities, he is not liable”. Furthermore, based on Article 45 of Law No. 1 of 1960, regulates that in a criminal prosecution of a minor by reason of an act committed before he has reached the age of sixteen years, the judge may:

- either give the order that the person found guilty be returned to his parents, his guardian or his fosterer without applying a punishment;
- if the act falls under the provision of a crime or of one of the misdemeanors ... and is committed before two years have elapsed since an earlier conviction of the same person of one of these misdemeanors or of a crime has become final, give the order that the person found guilty be placed at the disposal of the Government, without applying a punishment; or
- sentence the offender to a punishment.

3. Development of Child Prisoners

The definition of development in general is the process of using people, equipment, money, time, methods, and systems based on certain principles, which can produce maximum effectiveness and efficiency based on these objectives. Another definition of “development” is any effort or action which is directly related to planning, structuring, building or developing, directing, using, and controlling something efficiently and effectively (Editorial, 1988).

The development of child prisoners according to the concept of prison can be divided into two parts, namely: guidance in prison; and guidance outside of prison. As for the guidance given to child prisoners who are in prisons, they are required to properly follow all coaching programs which include (Editorial, 1988):

- a. General: triple blindness (illiteracy, number blindness, and language blindness)
- b. Mental Spiritual: religious education, Pancasila moral education, personality/character.
- c. Socio-Culture: social ethics, painting, dance, sound art, and musical arts.
- d. Skills Training: courses in sewing, crocheting, knitting, cooking, weaving, scouting, training for the younger generation and so on.
- e. Recreation: sports, chess, entertainment and family visits.

C. Child Prisoners in the Criminal Justice System

Prisons and the correctional system as part of the Criminal Justice System are regulated in Law of the Republic of Indonesia Number 12 of 1995 on Correctional (hereinafter referred to as Law No. 12 of 1995). Based on Article 1 number 1 of Law No. 12 of 1995, explain that:

“Correctional is an activity of guidance to the Correctional Assisted Citizens based on the system, institutions and methods of guidance which are the last part of the criminal system in the criminal justice system.”

Based on Article 1 number 2 of Law No. 12 of 1995, explain that:

“Correctional System is an order regarding the direction and boundaries as well as procedures for fostering Correctional Assisted Citizens based on Pancasila which is carried out in an integrated manner between the coach, mentor, and the community to improve the quality of the Correctional Assisted Citizens so realizing mistakes, correcting oneself, and not repeating crimes so that they can be accepted back by the community, can play an active role in development, and can live naturally as good and responsible citizens.”

Based on Article 1 number 3 of Law No. 12 of 1995, explain that:

“Correctional Institution, hereinafter abbreviated as Prison, is a training place for inmates and child prisoners.”

From the above provisions, it seems that the correctional system views prisoners not only as objects but as subjects that are no different from other human beings who are subject to criminal sanctions at any time, so that the prisoner does not have to be eliminated. What must be eradicated are the causative factors that can cause inmates to act contrary to law, morality, religion or other obligations which may be subject to criminal law. In other words, the strategy that must be taken is the problem or condition that directly or indirectly causes the crime to occur (Dipradja&Atmasasmita, 1979). As for based on Article 3 of Law No. 12 of 1995, regulates that:

“The Correctional System serves to prepare the Correctional Assisted Citizens to be able to integrate healthily with the community, so that they can play a role again as free and responsible members of society.”

From the provisions above, what is meant by “integrated healthily” is the restoration of the integrity of the relationship between Correctional Assistance Citizens and the community (Priyatno, 2004).

IV. DISCUSSION

A. The Essence of Fostering Child Prisoners is Serving Sentences in Prisons in Southeast Sulawesi Province

1. Principle of Protection

Prison as the spearhead of the application of the principle of protection is a forum for achieving these goals through education, rehabilitation and reintegration. In line with the role of prisons, it is fitting that prison officials as functions of law enforcement officers carry out the task of fostering and securing prisoners (Walukow, 2013). Furthermore, according to Rahardjo (2000), that:

“Legal protection is a variety of legal actions that must be provided by law enforcement officials to provide a sense of security both physically and mentally, from interference and various threats from any party.”

Therefore, protection is included in relation to the function of protection and education as reflected in the banyan tree which protects and provides coolness and tranquility for everything under it, namely the community and everything in it (Jasin, 2019).

2. Principles of Equal Treatment and Service

Prisoners or Child Prisoners are subjects that need to be protected, as based on Article 3 of Law of the Republic of Indonesia Number 39 of 1999 on Human Rights (hereinafter referred to as Law No. 39 of 1999), regulates that:

(1) Every person is born free with equal and same level of human dignity and honor and is bestowed with the intellect and to live in a society, nation, and state in a spirit of brotherhood.

(2) Every person has the right to recognition, guarantee, protection, and fairly legal treatment as well as legal certainty and equality before the law.

(3) Every person has the right to the protection of human rights and fundamental freedom, without discrimination.

Based on Article 5 section (3) of Law No. 39 of 1999, regulates that:

“Every person who belongs to a vulnerable group has the right to receive treatment and more protection with regard to its special.”

From the explanation of the provisions above, what is meant by “vulnerable groups” include the elderly, children, the poor, pregnant women, and persons with disabilities.

Based on Article 2 point c of Law No. 11 of 2012, regulates that:

“The Child Criminal Justice System is implemented based on the principle non-discrimination”

From the explanation of the provisions above, what is meant by “non-discrimination” is the absence of differences in treatment based on ethnicity, religion, race, class, gender, culture and language, legal status of the child, order of birth of the Child, and physical condition and/or mentally.

As for the hope of law enforcement for child prisoners, as based on Article 5 section (3) of Law No. 11 of 2012, regulates that *“in the Child Criminal Justice System ... Diversion is mandatory”*. Based on Article 8 section (3) point c of Law No. 11 of 2012, regulates that *“The Diversion process must pay attention on avoidance of negative stigma”*.

3. Principles of Education

Education is an important right that children, including child prisoners, must have. The provisions in the CRC are related to education (Widari, 2012), namely:

a. Article 6 section (2) of the CRC, regulates that *“States Parties shall ensure to the maximum extent possible the survival and development of the child”*.

b. Article 31 section (2) of the CRC, regulates that *“States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity”*.

c. Article 32 section (1) of the CRC, regulates that *“States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development”*.

d. Article 40 section (1) of the CRC, regulates that *“States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society”*.

e. Article 42 of the CRC, regulates that *“States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike”*.

The education given specifically for child prisoners in prisons aims to train and stimulate child prisoners so that when they return to society they do not feel isolated and lead a normal life without psychological burdens.

4. Principles of Development

As based on Article 1 number 3 of the Law No. 12 of 1995 which has been previously mentioned, as for the objectives of the prison as based on Article 2 of the Law No. 12 of 1995, regulates that:

“The Correctional System is organized to form the Correctional Assisted Citizens in order to become fully human, realized mistakes, correcting oneself, and not repeating crimes so that they can be accepted back by the community, can play an active role in development, and can live naturally as good and responsible citizens.”

According to Gultom (2006), that:

“Fostering for child prisoners in prisons is carried out with a focus on physical, mental and social development. Various self-experiences will shape children’s views of the social environment around them. Furthermore, as a teenager, former child prisoners have the right to meet social needs.”

5. Principle of Loss of Independence

According to Muladi& Arief (1992), that:

“Legal protection for children in the judicial process cannot be separated from what is actually the goal or rationale of juvenile justice itself, because it is based on new ideas that can determine what and how the nature of legal protection for children. The objectives and rationale for juvenile justice cannot be separated from the main objective of realizing child welfare, which is basically an integral part of social welfare. Whereas the welfare or interests of children are under the interests of society, it must be seen that prioritizing the welfare and interests of children is essentially part of the effort to create social welfare.”

6. Principles of Relating to Families

The importance of children communicating with their families is one of the philosophical considerations of judges in making decisions. If the judge tries a child, even though he believes that the child is really proven to have committed a crime as alleged by the public prosecutor, he then decides to return the child to his parents, to his guardian, or to the person who cared for him. A judge’s decision to return a child to a parent, guardian, or guardian cannot of course be the same as a decision to punish or take action against a child, even if the lawmaker intends to fulfill all three. Education as a means for the children of prisoners and with a judge’s decision like that it is more accurately called a judge’s discretion, where the act of making such a policy is indeed justified by law (Lamintang&Lamintang, 2010).

7. Principle of Respecting Human Dignity

This principle is intended so that in carrying out fostering, prisoners must be treated as human beings who uphold their dignity. Even though inmates were people who had done something wrong, no matter how big or heavy they were, they were still human. As a human being, his dignity must be respected. If it is not done, it means that human rights violations have occurred. Furthermore, prisons in the prison system are implemented while upholding human dignity. This treatment is intended so that the prisoner remains in his position not only as an object, but also as a subject in the coaching process with the ultimate goal of returning the prisoner to the community as a good and useful person (inmate resocialization) (Muladi& Arief, 1992).

B. Implementation of Fostering Child Prisoners is Serving Sentences in Prisons in Southeast Sulawesi Province

Based on the results of research that has been conducted regarding the implementation of fostering child prisoners is serving a period of detention in three prison locations, namely Kendari City, Kolaka Regency, and Konawe Regency. Furthermore, it can be seen in the table below.

Table 1. Number of Child Prisoners in the Three Research Locations from 2017 to 2019

No.	Regency/City	Years					
		2017		2018		2019	
		F	%	F	%	F	%
1	Kendari	75	84,27%	29	64,45%	28	63,63%
2	Kolaka	8	8,99%	6	13,33%	3	6,82%
3	Konawe	6	6,74%	10	22,22%	13	29,55%
Total		89	100,00%	45	100,00%	44	100,00%

Source: Data Processed from Southeast Sulawesi Regional Office of the Ministry of Law and Human Rights, 2020

The table above shows that in the last three years, there were 178 child prisoners in three prison locations. As for the description, in 2017, there were 75 or 84,27% of child prisoners in Kendari City Prison, 8 or 8,99% of child prisoners in Kolaka Regency Prison, and 6 or 6,74% of child prisoners in Konawe Regency Prison. In 2018, there were 29 or 64,45% of child prisoners in Kendari City Prison, 6 or 13,33% of child prisoners in Kolaka Regency Prison, and 10 or 22,22% of child prisoners in Konawe Regency Prison. In 2019, there were 28 or 63,63% of child prisoners in Kendari City Prison, 3 or 6,82% of child prisoners in Kolaka Regency Prison, and 13 or 29,55% of child prisoners in Konawe Prison. Furthermore, the form of fostering child prisoners in special prisons for children in the three research locations can be explained below.

1. Personality Development

The personality development of prisoners is very important because it is closely related to changes in the character and mental condition of prisoners in accordance with the objectives of prison. Furthermore, there are four types of personality development carried out, namely religion, sports, art, and awareness of the nation and state.

2. Independence Development

Following are the results of data collection from the interview process with respondents regarding the implementation of skills development for child prisoners in three prison locations, as can be seen in the table below.

Table 2. Implementation of Skills Development for Child Prisoners in Three Research Locations

No.	Activities	Frequency	Percentage
1	Always	5	11,11%
2	Sometimes	24	53,33%
3	Rarely	14	31,11%
4	Never	0	0,00%
5	Don't know	2	4,45%
Total		45	100,00%

Source: Primary Data Processed, 2020

The table above shows that there are 5 or 11,11% of respondents who stated that the implementation of skills development for child prisoners is always carried out, there are 24 or 53,33% of respondents who said it is sometimes done, there are 14 or 31,11% of respondents said it is rarely done, There were no respondents who said it had never been done, and there were 2 or 4,45% of respondents who said they did not know.

As for development of skills for child prisoners includes fisheries, animal husbandry, agriculture, plantation, industry and services such as furniture, shaving/hairdressing/beauty salons, washing vehicles, sewing, laundry, making mats, making photo frames, pressing tires, and work guidelines as well as work environment.

C. Factors Affecting the Implementation of Fostering Child Prisoners is Serving Sentences in Prisons in Southeast Sulawesi Province

1. Legal Substance Factors

The substance of law is norms, rules and regulations. The rules, norms and patterns of human behavior are clearly visible in it. So the substance of the law concerns the prevailing laws and regulations which have binding power and serve as guidelines for law enforcement officers. Furthermore, the implementation of fostering child prisoners based on legal substance factors can be seen in the table below.

Table 3. The Affecting of Legal Substance Factors in the Fostering of Child Prisoners

No.	Activities	Frequency	Percentage
1	Very Effective	9	20,00%
2	Effective	29	64,44%
3	Less Effective	5	11,12%
4	Ineffective	0	0,00%
5	Very Ineffective	2	4,44%
Total		45	100,00%

Source: Primary Data Processed, 2020

The table above shows that there are 9 or 20,00% of respondents who stated that the affecting of legal substance factors in the fostering of child prisoners is very effective, there are 29 or 64,44% of respondents who stated that it was effective, there are 5 or 11,12% of respondents who stated that it was less effective, there were no respondents who stated that it was ineffective, and there are 2 or 4,44% of respondents who stated that it was very ineffective. It can be assessed that the affecting of legal substance factors in the fostering of child prisoners has been effective.

According to Pound (1982), that “*natural law is seen as a tool of social engineering*”. Furthermore, according to Kusumaatmadja (1970), that “*law serves as a tool to help change society*”.

2. Law Enforcement Factors

The function of guidance is carried out by prison officers. Policy implementation will not be successful without the support of human resources with adequate quality and quantity. Furthermore, the implementation of fostering child prisoners based on law enforcement factors can be seen in the table below.

Table 4. The Affecting of Law Enforcement Factors in the Fostering of Child Prisoners

No.	Activities	Frequency	Percentage
1	Very Effective	24	53,34%
2	Effective	18	40,00%
3	Less Effective	2	4,44%
4	Ineffective	0	0,00%
5	Very Ineffective	1	2,22%
Total		45	100,00%

Source: Primary Data Processed, 2020

The table above shows that there are 24 or 53,34% of respondents who stated that the affecting of law enforcement factors in the fostering of child prisoners is very effective, there are 18 or 40,00% of respondents who stated that it was effective, there are 2 or 4,44% of respondents who stated that it was less effective, there were no respondents who stated that it was ineffective, and there are 1 or 2,22% of respondents who stated that it was very ineffective. It can be assessed that the affecting of law enforcement factors in the fostering of child prisoners has been very effective.

According to Sujata (2000), that “*the success of law enforcement is determined by the party enforcing it, namely law enforcement officials*”. A similar sentiment was expressed by Asshiddiqie (2000), that “*the main actors who are very prominent in the law enforcement process are the police, prosecutors, lawyers and judges*”.

3. Facility and Infrastructure Factors

Facilities and infrastructure have a very important role in law enforcement, without these facilities and infrastructure, it is impossible for law enforcers to fully align their roles with their real roles. The benefits of existing facilities always depend on their use, if users do not provide facilities, there will be obstacles in carrying out their duties. Furthermore, the implementation of fostering child prisoners based on facility and infrastructure factors can be seen in the table below.

Table 5. The Affecting of Facility and Infrastructure Factors in the Fostering of Child Prisoners

No.	Activities	Frequency	Percentage
1	Very Effective	33	73,33%
2	Effective	12	26,67%
3	Less Effective	0	0,00%
4	Ineffective	0	0,00%
5	Very Ineffective	0	0,00%
Total		45	100,00%

Source: Primary Data Processed, 2020

The table above shows that there are 33 or 73,33% of respondents who stated that the affecting of law enforcement factors in the fostering of child prisoners is very effective, there are 12 or 26,67% of respondents who stated that it was effective, there were no respondents who stated that it was less effective, ineffective, and very ineffective. It can be assessed that the affecting of facility and infrastructure factors in the fostering of child prisoners has been very effective.

According to Soekanto (2003), that “*it is impossible to enforce the law with actors who do not have adequate facilities and infrastructure*”.

4. Public Awareness Factors

The implementation of fostering child prisoners based on public awareness factors can be seen in the table below.

Table 6. The Affecting of Public Awareness Factors in the Fostering of Child Prisoners

No.	Activities	Frequency	Percentage
1	Very Effective	9	20,00%
2	Effective	25	55,55%
3	Less Effective	8	17,78%
4	Ineffective	0	0,00%
5	Very Ineffective	3	6,67%
Total		45	100,00%

Source: Primary Data Processed, 2020

The table above shows that there are 9 or 20,00% of respondents who stated that the affecting of law enforcement factors in the fostering of child prisoners is very effective, there are 25 or 55,55% of respondents who stated that it was effective, there are 8 or 17,78% of respondents who stated that it was less effective, there were no respondents who stated that it was ineffective, and there are 3 or 6,67% of respondents who stated that it was very ineffective. It can be assessed that the affecting of law enforcement factors in the fostering of child prisoners has been effective.

Furthermore, based on the results of an interview with one of the prison officers, it was stated that:

“The community is also an inhibiting factor in the implementation of coaching for child prisoners, because of the negative stigma attached by society to prisoners. The community is expected to provide opportunities and attention to former prisoners, so that these prisoners do not repeat acts that violate the law and harm themselves, others, their nation and country.”

5. Community Cultural Factors

The elements of legal culture are socio-cultural values that apply in society and shape the mindset and influence the behavior of citizens and human rights enforcers (Surbakti, 2010). Furthermore, the implementation of fostering child prisoners based on community cultural factors can be seen in the table below.

Table 7. The Affecting of Community Cultural Factors in the Fostering of Child Prisoners

No.	Activities	Frequency	Percentage
1	Very Effective	10	22,22%
2	Effective	30	66,67%
3	Less Effective	4	8,89%
4	Ineffective	0	0,00%
5	Very Ineffective	1	2,22%
Total		45	100,00%

Source: Primary Data Processed, 2020

The table above shows that there are 10 or 22,22% of respondents who stated that the affecting of law enforcement factors in the fostering of child prisoners is very effective, there are 30 or 66,67% of respondents who stated that it was effective, there are 4 or 8,89% of respondents who stated that it was less effective, there were no respondents who stated that it was ineffective, and there are 1 or 2,22% of respondents who stated that it was very ineffective. It can be assessed that the affecting of law enforcement factors in the fostering of child prisoners has been effective.

The affecting that often occurs in child prisoners is the strong mindset of the community which always views that children in conflict with the law are resolved through formal legal procedures. Externally, the majority of society in particular is of the view that even children in conflict with the law should be punished like adults. This is acknowledged by several investigators, that *“there are difficulties in carrying out the diversion process in the juvenile case because of the strong influence of the victim’s family on the diversion process”*.

Furthermore, the effectiveness of the law is shown by the fact that society is intended to take actions required by a legal norm. The law can be effective when people behave as the law requires. In this case it is in accordance with the opinion of Ali (1998), that: *“in order to know the extent to which the law applies, we must first be able to measure the extent to which a society has obeyed the law or not”*.

V. CONCLUSION

1. The essence of fostering child prisoners is serving sentences in prisons in Southeast Sulawesi Province is based on principle of protection, principles of equal treatment and service, principles of education, principles of development, principle of loss of independence, principles of relating to families, and principle of respecting human dignity.
2. The implementation of fostering child prisoners is serving sentences in prisons in Southeast Sulawesi Province which includes personality development and independence development has not been maximally implemented. This will have a negative impact on child prisoners when they are reintegrated into a society that is negatively stigmatized by society.
3. Factors affecting the implementation of fostering child prisoners is serving sentences in prisons in Southeast Sulawesi Province which includes legal substance factors, law enforcement factors, facility and infrastructure factors, public awareness factors, and community cultural factors. it can be assessed that the affecting of factors in the fostering of child prisoners has been effective.

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