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Legal Protection for Wife and Child as Consequence of Head of Family's Criminal Imprisonment Enforcement

Article	Abstract
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INTRODUCTION

An individual's responsibility in criminal law does not only mean officially rendering sentence on him/her, but also fully ensuring that that individual has been dealt with by correct institutions for responsibility for the crime his/her has committed. Roeslan Saleh said: "Criminal responsibility cannot be separated from one or two aspects that need to be observed from philosophical perspective. One of which is justice, thus discussion on criminal responsibility presents a clearer outline. Criminal responsibility as a matter of law is closely related to justice as a matter of philosophy.¹

Chairul Huda said that criminal responsibility was individual's responsibility for crime

¹ Roeslan Saleh, *Pikiran-pikiran Tentang Pertanggungjawaban Pidana* (Jakarta: Ghalia Indonesia, 1982), 10.

he/she committed.² Therefore, criminal responsibility arises as an individual commits a crime. Criminal responsibility cannot be separated from criminal act. Principally, an individual cannot be held responsible and punished when he/she does not commit any crime. Criminal responsibility is basically a mechanism developed by criminal law in response to violation of an agreement to reject a certain act. The people's rejection of an act is stated in the form of prohibition (and threat of criminal imprisonment) on the act. This is a reflection that citizens through the state have denounced such act. Thus, whoever or any person committing it will be denounced and blamed.

After undergoing a series of criminal justice process, an accused can be rendered with 3 (three) decisions, including one declaring that the accused is evidently guilty and rendered a sentence or acquittal decision. Criminal decision on an accused can be death sentence, life sentence, imprisonment, confinement or fine. Judicature is the core pillar and basis of a constitutional state to provide its people justice and medium of restoration and rehabilitation. However, in certain conditions, there are other sides that such criminal sentence affects those who are under the accused's responsibility to give protection and welfare, in case the accused is a head of household.

The drug prevalence and abuse in Indonesia currently increase to an alarming phase. One region affected by this is Aceh Province, especially East Aceh, as the transit point of entry of narcotics into Aceh.³ The narcotics are smuggled from abroad. When a husband, as the head of household, is involved in narcotics abuse and undergoing imprisonment as the consequence of his act, his wife and child are those directly affected by the family's welfare. As the consequence, the wife must replace the role as the head of household, the backbone of family, not only in economic, but also in social, cultural and educational fields.

Gampong is on the coast of East Aceh, covering the villages including Gampong Alue Dua Muka, Gampong Baro and Gampong Aceh, Idi Rayeuk District, East Aceh Regency. In this area there are heads of household undergoing sentence due to narcotics crimes with average period above 10 (ten) years.⁴ This condition has their wives and children economically neglected due to the provider's disappearance. Fulfillment of the wife and child's rights is not secured and protected. Meanwhile, the livelihood of coastal community is dominated by men, as fishermen. Thus, it is difficult for women to do this job or any other jobs that the coastal women are limited in many aspects, including from education, skill and business capital aspects. This must be of the attention and responsibility of administrators of woman and child protection to attempt fulfillment of their rights.

Legal protection means protection of the dignity and honor, and acknowledgement of legal subjects' human rights under the provisions of law from any abuse.⁵ Woman and child protection will be given specifically given that women and children are vulnerable legal subjects to many

² Chairul Huda, *Dari Tiada Pidana Tanpa Kesalahan Menuju Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan*, 4 ed. (Jakarta: Kencana Prenada Media Group, 2011), 70.

³ T. Tajul Ramadhan dan Adi Hermansyah, "The Countermeasures of Criminal Act of Narcotics by The Police (The Research in Legal Jurisdiction of Police Resort of East Aceh)," *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Syiah Kuala* 3, no. 4 (t.t.): 795.

⁴ Interview with Azhari Secretary of Gampong Alue Muka Dua O Village, on 18 July 2022 at Idi, East Aceh Regency at 13.45 WIB, t.t.

⁵ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia* (Jakarta: Bina Ilmu, 1987), 1; Agus Purnomo and Lutfiana Dwi Mayasari, *Dinamika Hukum Perjanjian Perkawinan di Indonesia Kajian Terhadap Lembaga Eksekutorial dan Solusi Permasalahannya* (Malang: Inteligencia Media, 2021), 29.

aspects of life. The perception of women as weak being is certainly an understanding that is related to patriarchic cultural factor.⁶

Theoretically, non-fulfillment of citizen's rights is a violation of Article 34 of the 1945 Constitution. This provision mandates enforcement of state's obligation of assuring fulfillment of poor and citizens' right to basic needs. As legal protection for the wives and children as the result of enforcement of sentence on head of household has not been fulfilled, in the author's opinion there is no synchronization between what is mentioned in the law and field facts.

Based on investigation on previous research, there was no previous research on "Legal Protection for the Wife and Child as the Result of Enforcement of Criminal Sentence on the Head of Household", but there was research on wife and child's rights entitled "*Penjatuhan Pidana Penjara Bagi Penelantaran Rumah Tangga (Kajian Putusan Nomor 20/Pid.Sus/2019/PN.Lrt)* [Criminal Imprisonment Sentence for Family Abandonment (A Study on Decision Number 20/Pid.Sus/2019/PN.Lrt)]" that discussed the impacts of family abandonment victims in Decision Number 20/Pid.Sus/2019/PN.Lrt, that if the perpetrator was rendered criminal imprisonment, the whole victims would be abandoned more. The judges should have first attempted mediation and compensation, thus the victims would not be abandoned more with such criminal imprisonment. The other one was research entitled "*Perlindungan Hukum Bagi Perempuan Korban Penelantaran Suami Dari Perspektif Penghormatan Hak Asasi Manusia* [Legal Protection for Female Victims of Abandonment by Husband From the Perspective of Respect for Human Rights]", discussing that the state had not performed its obligation of protecting abandonment victim-wife by husband in a household due to non-response to every report on abandonment case as mandated by the law of Eradication of Domestic Violence.

From the description above, some issues were identified: the legal protection for the wife and child as victims of enforcement of sentence on the head of household and the efforts that administrators of protection for woman and child as victims of enforcement of sentence on the head of household do? The aim of this research was to examine 1) the protection for women and children; 2) legal protection and efforts to do for the wife and child as the consequence of sentence on the head of household.

RESEARCH METHODS

This research used a juridical-empirical research method, a legal research attempting to view the law in factual sense or to observe, research how the law works in the community.⁷ The theoretical framework used in the analysis was the legal protection theory. The data were collected using 3 methods: observation in East Aceh Regency, in-depth interview and documentation related to legal protection issues. The next process was data processing.⁸ The researcher analyzed the data using a qualitative descriptive approach. The qualitative research paper contained the results of

⁶ Muhammad Iqbal Juliansyahzen, "Otoritarianisme Pemahaman Keagamaan: Melacak Akar Kekerasan Terhadap Perempuan Dalam Rumah Tangga" *Yinyang: Jurnal Studi Islam Gender Dan Anak*, 17 June 2021, 50, <https://doi.org/10.24090/yinyang.v16i1.3999>.

⁷ Joenaedi Efendi and Jhonny Ibrahim, *Metode Penelitian Hukum Normatif Dan Empiris* (Depok: Prenadamedia Group, 2016), 150.

⁸ Bambang Sunggono, *Metodologi Penelitian Hukum* (Jakarta: Rajawali Pers, 2015), 125.

observation and the facts revealed in the field.⁹ The data were then compared to the data collected from legislation, books, journals and interview results to be composed systematically for logical answers.

ANALYSIS AND DISCUSSION

The most underlying condition that the abandoned children experienced is termination of education and health assurance. The state as the provider and assurer of welfare of the whole people assumes the responsibility for developing and raising the abandoned children. In its position, the government has not shown its presence in fulfillment of rights as mandated by Article 34 of the 1945 Constitution and Child Protection law in the life of the nation. In the implementation of Article 34 of the 1945 Constitution on substance for small groups who are directly affected by criminal responsibility, if the perpetrator is a head of household, the effect on his wife and child is the loss of a head of family figure responsible for their living, raising and giving protection to the family.

Protection for Women and Children

Legal protection is any capacities and efforts performed consciously by any individual or governmental institution, private sector aiming to attempt for securing, controlling and fulfilling welfare pursuant to the existing basic rights.¹⁰ Women protection is any efforts addressed to protecting women and giving a sense of security in fulfillment of their rights by giving consistent and systematic attention addressed at gender equality.¹¹

As a United Nations member, Indonesia has strong commitment to human rights protection, as shown with the Indonesian Government's willingness to ratify the international instruments of Human Rights. Indonesia's responsibility for protecting human rights will apply fully when the Indonesian Government agrees on and arrange regulations accommodating women's equal rights and non-discrimination in any conditions. The concrete action to do is to create national regulations by both the central and local governments.

Indonesia regulates the provisions of women's rights constitutionally in Articles A-J of the 1945 Constitution, Law Number 7 of 1984 on ratification of CEDAW, Law Number 39 of 1999 on Human Rights, and the provisions on domestic scope are set forth in Law Number 1 of 1974 on Marriage and Law Number 23 of 2004 on Domestic Violence. Women's rights protection is designed in various programs of the Ministry of Women Empowerment and Child Protection (Kemen PPPA), through a concept of gender mainstreaming and women empowerment is a concept that has been formed since the beginning establishment of Indonesia as a nation, as contained in the 1945 Constitution of the Republic of Indonesia. This concept has also been expressed in the National Medium-Term Development Plan (RPJMN) 2020 – 2024.

⁹ Abi Anggito and Johan Setiawan, *Metodologi Penelitian Kualitatif* (West Java: CV Jejak, 2018), 11.

¹⁰ Karto Manalu and David Nainggolan, *Tinjauan Yuridis Pertanggungjawaban Pidana Istri Yang menerima Nafkah dari hasil Pencucian Uang* (Jakarta: Azka Pustaka, 2021), 73.

¹¹ Hazza Shabira Delanda and Fahrurnnisa Fahrurnnisa, "Peran Media Komunitas Solidaritas Perempuan Sumbawa dalam Perlindungan dan Pemberdayaan Perempuan di Kabupaten Sumbawa," *KAGANGA KOMUNIKA: Journal of Communication Science* 3, no. 1 (1 June 2021): 107, <https://doi.org/10.36761/kagangakomunika.v3i1.1064>.

Child is a mandate and blessing from God Almighty, where the dignity and honor as complete human is inherent in.¹² With their position as the nation's next generation, children must have the broadest possible opportunities to grow and develop without any restraint with anything occurring with their family. Parents are one of the parties obliged to give child protection. Any parents are obliged to educate their children to be devout, useful for their religion, land and nation. More specifically, they need welfare in order to grow to live their life firmly.¹³

The purpose of legal protection for children is to guarantee fulfillment of their right so as to live, grow and participate optimally pursuant to human's dignity and honor, and be protected from any violence and discrimination in realizing Indonesian children who are quality, of noble character and prosperous.¹⁴

Children as a future valuable asset of a nation and country whose rights need to be well kept and protected, since it is their hands that determine the advancement of a nation. The more modern and advanced a country, the state should pay bigger attention to creating conditions conducive to children's growth and development. Children's growth and development need to be accompanied with the state's comprehensive protection. The state's obligation of administering child protection should be realized to assure that each child has the right to viability, growth and development and to protection from violence and discrimination.

Constitutionally, child protection is set forth in Article 28B of the 1945 Constitution as follows:

- (1) Every person shall be entitled to establish a family and to further descendants through legal marriage;
- (2) Every child shall be entitled to viability, to grow up, and to develop as well as be entitled for protection against violence and discrimination.

Indonesia has had the legal instrument acknowledging child protection in Law Number 4 of 1979 on Child Welfare. Moreover, Indonesia has ratified the Convention on Children through Presidential Decree Number 36 of 1990 on "Legitimation of the Convention on The Rights of The Child". In 1999 Indonesia enforced Law Number 39 of 1999 on Human Rights, which also regulated fulfillment of children's basic rights through some articles and Law Number 23 of 2002 as amended the last time by Law Number 17 of 2016 on Second Amendment to Law Number 23 of 2002 on Child Protection.¹⁵

¹² Meilan Lestari, "Hak Anak Untuk Mendapatkan Perlindungan Berdasarkan Peraturan Perundang - Undangan," *UIR Law Review* 1, no. 2 (25 October 2017): 187, <https://doi.org/10.25299/uirlrev.2017.1.02.553>; Refers to Muhammad Hertianto, "Tinjauan Yuridis Terhadap Perlindungan Anak Dalam Ruang Siber di Indonesia," *Jurnal Hukum & Pembangunan* 51, no. 3 (25 September 2021): 556, <https://doi.org/10.21143/jhp.vol51.no3.3123>.

¹³ Samiudin Samiudin, "Kedudukan Anak Dalam Keluarga Menurut Alqur'an," *Pancawahana : Jurnal Studi Islam* 12, no. 2 (2017): 6. Refers to Daud Rismana et al., "Dispensasi Izin Perkawinan Beda Agama Di Indonesia," *Humani (Hukum Dan Masyarakat Madani)* 13, no. 1 (May 31, 2023): 140–50, <https://doi.org/10.26623/HUMANI.V13I1.5393>. legally legally, are not specifically regulated in Law Number 1 of 1974 concerning Marriage. Article 2 Paragraph (1)

¹⁴ Mardi Candra, *Aspek Perlindungan Anak Indonesia: Analisis Tentang Perkawinan di Bawah Umur* (Jakarta: Kencana, 2018), 228.

¹⁵ *Law Number 23 of 2002 on Child Protection*, t.t., 23; *Law Number 17 of 2016 on Second Amendment to Law Number 23 of 2002 on Child Protection*, t.t., 17.

Legal protection for children can be defined as the effort to legally protect them on the fundamental rights and freedoms of children¹⁶ and various interests related to children's welfare. Therefore, the issues on legal protection for children cover very broad scopes, such as:

1. Protection for children's freedom;
2. protection for children's basic rights; and
3. legal protection for all of children's interests related to welfare.

Efforts to Seek for Protection for Wife and Child as the Result of Sentence on Head of Household

According to Emile Durkheim, crime is a normal symptom in every community characterized with heterogeneity and social development, thus it impossible to be eliminated. Radeliff Brown has defined crime in association with responsibility that crime is deemed as a habit that encourages enforcement of criminal sanction. From juridical concept, crime means human's behavior that is punishable under criminal law.¹⁷

In the last decade Indonesia have been more incessantly fighting and eradicating narcotics crimes, even if still Indonesia is one of the highest rankings in narcotics cases, not to mention the more common international-level smugglings that prevention is difficult.¹⁸ The narcotics crimes eradication is implemented through legal enforcement related to three factors of legal system: legislation (substance), law enforcing institution (structure) and legal culture). In this case, it is to implement legal culture on law enforcers, in which they need to be skillful, honest, dedicated and of assured dedication.¹⁹

One type of sanctions prevailing for narcotics criminals is imprisonment. Criminal imprisonment is a sentence in the form of restriction of the movement freedom of a convict by confining him/her in a place named Correctional Facility (LAPAS), obligating him/her to comply with all regulations and orders prevailing in relevant Correctional Facility.²⁰ Finally, narcotics issues are also related to domestic stability. This issue also signifies that family does not serve well in the illegal item's spread.²¹

Sentencing individual committing such crime or causing such illegal condition, in criminal law, is called Criminal responsibility. It is known in Dutch as "*torekenbaarheid*", and "criminal responsibility" or "criminal liability" in English, which is a series of processes done on violator in

¹⁶ *Fundamental Rights and Freedoms Of Children* are children's human rights and children's freedom acknowledged internationally through the United Nations Convention on the Rights of the Child, the draft formulation was agreed unanimously by the United Nations General Assembly on 20 November 1989 and applied as international human rights law on 2 September 1990. KHA is an instrument containing the universal principles and provisions of law on children's rights based on an international agreement on human rights including elements of civil right, political right, economic right, social right and cultural right. There are 4 general principles of KHA: (1) Non-Discrimination Principle; (2) Best Interest of the Child Principle; (3) The Rights to Life, Viability and Development Principle; (4) Respect for the Views of the Child Principle.

¹⁷ Abdussalam, *Kriminologi* (Jakarta: Restu Agung, 2017), 15.

¹⁸ Abdussalam, 3.

¹⁹ Abdussalam, *Kriminologi*.

²⁰ Zainab Ompu Jainah, "Efektifitas Penerapan Pidana Kurungan Bagi Pelaku Penyalahgunaan Narkotika," *Pranata Hukum* 10, no. 1 (31 January 2015): 2, <http://jurnal.ubl.ac.id/index.php/PH/article/view/549>.

²¹ Khoiruddin Nasution, "The Roles of Families in Combating Drugs Uses, Violence and Terrorism," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (30 June 2021): 23–24, <https://doi.org/10.22373/sjhk.v5i1.9512>.

transition of sentence to the perpetrator.²²

According to Kant, the sentence received by an individual is an integral part of the crime he/she commits, not a logical consequence of a social contract. Kant even rejected the view that sentence is intended for perpetrator's goodness or community goodness. Kant only received the only reason that sentence is rendered only because relevant perpetrator has committed a crime. This opinion of Kant was based that "humans must build a moral order on the basis of moral imperative autonomy for it to humanize the world and humans. The imperative moral that Kant mentioned was unconditional moral. For example, "a borrowed item must be returned". It is only a "must", not depending on any other consequence or factor beyond such must.²³ From the background of criminal sentencing that Kant developed born the retributive theory on which sentencing purpose was based emphasized on perpetrator's responsibility to the victim.²⁴

According to Leonard Orland, meanwhile, the purpose of criminal sentencing is not only as retaliation against perpetrator, but as a means of achieving useful goal of protecting the community towards community's welfare. This theory raised criminal sentencing goal as the means of prevention, both special prevention addressed to perpetrator and general prevention addressed to the community.

Based on the description above, criminal responsibility by perpetrator shall at least aim at deterrence and prevention. Convict placement in Correctional Facility is deemed as a medium for perpetrator's moral education, as perpetrator's moral and spiritual reflections. Convicts need moral and religious teachings in order to renew their belief and view, for their tendency to do crime to be in controlled.

Finally, criminal responsibility focuses on perpetrator, victim and community aiming at order and welfare, while there are small group who is directly affected by perpetrator's criminal responsibility, that if the perpetrator is a head of household, the small group is the family comprised of wife and child. The impact on the wife and child is loss of the figure of head of family responsible for earning a living, raising and giving protection for the family.

In the research on the coastal area in Aceh, there were some families whose heads of household were undergoing a sentence due to committing narcotics crimes.²⁵

Table 1: *Head of Household Undergoing a Sentence*

No	Head of Household Undergoing a Sentence	Remarks
1	ND bin Thaleb (38 years old) Gp. Alue Dua Muka Dua O Crime: Methamphetamine Courier 125 Kg Family: a Wife and 2 Children	sentenced: 20 years (6 years have passed)

²² Aryo Fadlian, "Pertanggungjawaban Pidana dalam Suatu Kerangka Teoritis," *Jurnal Hukum Positum* 5, no. 2 (2020): 13.

²³ K. Bertens, *Filsuf-filsuf Besar Tentang Manusia* (Yogyakarta: Kanisius, 2000), 94.

²⁴ Sholehuddin, *Sistem Sanksi Dalam Hukum Pidana* (Jakarta: Raja Grafindo Persada, 2004), 40.

²⁵ Interview with Fadhlán Head of Development and Work Activity Section of Class 2B Correctional Facility of Idi, on 19 July 2022 at Idi, East Aceh Regency at 11.30 WIB, t.t.

No	Head of Household Undergoing a Sentence	Remarks
2	SA bin Zakarian (33 years old) Gp. Alue Dua Muka Crime: Methamphetamine Courier 10 Kg Family: a Wife and 1 Child	sentenced: 10 years (2 years have passed)
3	KK bin Kamarud Zaman (38 years old) Gp. Aceh Crime: Methamphetamine Courier 200 Kg Family: a Wife and 2 Children	Status: Prosecutors' Prisoner Still undergoing hearing process
4	AZ bin Zainal (39 years old) Gp. Aceh Crime: Methamphetamine Courier 200 Kg Family: a Wife and 4 Children	Status: Prosecutors' Prisoner Still undergoing hearing process
5	SY bin M. Juned (49 years old) Gp. Baro Crime: Cannabis Courier 2 Kg Family: a Wife and 3 Children	sentenced: 5 years (3 years have passed)

Source: From Class IIB Correctional Facility of Idi, East Aceh Regency

Based on the table, observation was conducted through interview with Secretaries of Gampong Alue Muka Dua O, Gampong Aceh and Gampong Baro Villages on the life of the families of the prisoners and the accused above after they were left for undergoing their respective sentence. They certified as follows:

1. AZ bin Zainal (39 years old) had a wife and two children, a female (13 years old) and a male (10 years old), both still at school. As the husband was imprisoned, economically the wife was aided by her family and BLT (cash transfer) from the Social Department. The aid was also tentative, as per the family's capacity.²⁶
2. SA bin Zakarian (33 years old) had a wife and one 3-year old daughter. As the husband was imprisoned, the wife and the child lived with the aid of Samsul's family as per their capacity.²⁷
3. KK bin Kamarud Zaman (38 years old) had a wife and three children, two females and one male, the three still at school. The family life as the husband was imprisoned was with their families' aid and BLT (cash transfer) from the Social Department.²⁸
4. AZ bin Zainal (39 years old) had a wife and four children, two females and two males, the four still at school. The family life was temporarily with the aid of the families and of BLT (cash transfer) from the Social Department.

²⁶ Interview with Azhari Secretary of Gampong Alue Muka Dua O Village, on 18 July 2022 at Idi, East Aceh Regency at 13.45 WIB.

²⁷ Interview with Azhari Secretary of Gampong Alue Muka Dua O Village, on 18 July 2022 at Idi, East Aceh Regency at 13.45 WIB.

²⁸ Interview with Zaini Abdullah Secretary of Gampong Aceh Village, on 18 July 2022 at Idi, East Aceh Regency at 14.30 WIB

5. SY bin M. Juned (49 years old) had a wife and three sons who were still at school. As the husband was imprisoned, the wife's economy was aided by BLT (cash transfer) from the Social Department, and working odd jobs to earn the children a living.²⁹

Based on the description of the facts above, there was no child having their school terminated, but such conditions might potentially lead to it, as the wives in the families were housewives and they at the end claimed for a divorce and consequently they assumed the full responsibility to full their needs, while the jobs on the coastal area were dominated by men as fishermen. In fact, the children lost their father figures both in love and protection aspects. Such family life could also be categorized of the poor, which would affect the children's growth and development and viability. It is in such scope that the children need legal protection, since besides as family asset, they are also the nation's asset.

Article 1 item 12 Law Number 35 of 2014 on Amendment to Law Number 23 of 2002 on Child Protection states: "Child's Rights are part of human rights that must be assured, protected, and fulfilled by Parents, Family, community, state, government, and local government". Furthermore, Articles 22 and 23 state:³⁰

Article 22

"The State, Government, and Local Government are obligated and responsible to provide supporting facilities, infrastructures, and available human resources in administration of Child Protection".

Article 23

- (1) The State, Government, and Local Government assures Child protection, raising, and welfare in consideration of the rights and obligations of the Parents, Guardians, or other people who are legally responsible for the Child.
- (2) The State, Government, and Local Government supervise administration of Child Protection.

The Government as the administrator of child protection in this case only waits for report from the community to provide maximum protection, since the government usually has had aid program such as PKH and other aids.³¹ The author argues that on the basis of such provisions, the state should take care of and responsible for the children's welfare in the cases above and need to make certain efforts, such as allocating certain fund in managing special aid for the children's education fee and welfare other than BLT (cash transfer) from the Social Department, in consideration that they are directly affected by their fathers undergoing a sentence. It is true that the fathers have committed a crime and been responsible for it, but the children are not to be responsible for such crime. This conforms to the non-discrimination principle of the Convention on the Rights of the Children and the mandate of Article 21 paragraph (1) and (2) that:

- (1) The State, Government and Local Government are obligated and responsible for respecting fulfillment of Children's Rights without discrimination over tribe, religion, race, group, sex, ethnicity, culture and language, legal status, birth order, and physical and/or mental conditions.

²⁹ Interview with Burhanuddin Secretary of Gampong Baro Village, on 19 July 2022 at Idi, East Aceh Regency at 15.35 WIB, t.t.

³⁰ Law Number 23 of 2002 on Child Protection.

³¹ Interview with Desi Ramona S.E Head of General Affairs and Personnel Sub-Division, Women Empowerment and Child Protection and Family Planning Department of, East Aceh Regency, on 18 June 2021 at 11.00, t.t.

- (2) To assure fulfillment of the Children's Rights as referred to in paragraph (1), the state is obligated to fulfill, protect, and respect the Children's Rights.

Children as in the cases above need special protection, where in such situations and conditions, children with limited abilities are quite vulnerable and may potentially face constraints in fulfillment of their rights as protected by the law, such as:

1. Right of non-discrimination, in social and educational environments, children will be under stigmatization with their father's crime,
2. Right of growing and developing fairly with dignity and honor, or right of assured education, in which a child who is raised by both parents and a child who is raised by a single parent will certainly be different, especially if the child lives in poverty. Non-assured welfare and or possible termination of school education are a certainty.

These children legitimately must gain special protection under consideration that they are of minority group (certain condition) and of victims of stigmatization from labeling related to their parents' conditions.³²

According to Desi Ramona, staff of the Department of Women and Child Empowerment of East Aceh Regency explained some of PPA's main duties:

1. Women empowerment and participation by improving women's quality of life as per region's capacity;
2. Protection in the form of fulfillment of children's rights, existence of P2TP2A Institution, accompaniment with social disturbance, psychological disturbance and spiritual accompaniment;
3. Performing home visit based on free report or information received.

Explaining about the families of the criminals, Desi said that it was true there were some heads of households who were currently undergoing sentence process and the families left were directly affected and lost their heads of households who all this time earned them a living and gave them protection. The suffering experienced by the wives and children were not only the economic impacts, but also psychological and social impacts, as identified during home visit to the families.³³ A wife must take the role of head of household as well as the role of a mother for survival with the children. Two simultaneous roles were not easy, especially with no specific skills, business capital and capabilities not supported by the surrounding environment.

Moreover, Desi explained that basically, as per the national commitment related to improving women's quality, this was also expressed in the document of the National Medium-Term Development Plan (RPJMN) 2020-2024. One of the national priorities in RPJMN was improving quality and competitive human resources. Improving human resources was performed, among others, through improving women's quality, including women as head of household. We attempted to give suggestions and inputs on their desire and talent, and adapt to their aid necessity. However, these efforts would be realized in case of report from *Geuchik* (head of village) to the department.

³² See also Article 59 paragraph (2) point c and point o *Law Number 35 of 2014 on Amendment to Law Number 23 of 2002 on Child Protection*, t.t., 35.

³³ *Interview with Desi Ramona S.E Head of General Affairs and Personnel Sub-Division, Women Empowerment and Child Protection and Family Planning Department of, East Aceh Regency, on 18 June 2021 at 11.00.*

The constraint was that the East Aceh area was quite large, thus the information was not given smoothly.

CONCLUSION

As a conclusion of this discussion, husband's responsibility as perpetrator of criminal act directly affects the wife and child's welfare as they lose their provider. Fulfillment of the wife and child is not secured and protected. The coastal community earns a living as fishermen, thus it is difficult for the wives to do, while they have many limitations from education, skill and business capital aspects. Legal protection and the efforts need to be given to the wives and children as the result of enforcement of sentence on the heads of households as the government's responsibility, especially local government for the children's welfare. Local government can allocate certain fund in specific-purpose aid for the children's educational fee and welfare other than the Social Department's BLT (cash transfer), in consideration that the children have directly experienced the impact of their father's undergoing sentence. Child protection is set forth in the 1945 Constitution of the Republic of Indonesia, Convention on Children's Rights, Law of Children's Welfare, Law of Human Rights, and Law of Child Protection. These children can be classified into minority group (certain conditions) and Children as victims of stigmatization out of labeling related to their parents' conditions. Therefore, *geuchik* (heads of villages) are suggested to actively coordinate with the PPPA Department of East Aceh Regency for aid in fulfillment of the wives and children's welfare in a situation of case *a quo*.

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