

**ENFORCEMENT OF THE LAW AGAINST CHILDREN PERFORMING THE CRIME OF BABY AVAILMENT
(Klaten Police Case Study)**Sekar Nur hidayati¹, Marisa Kurnianingsih²¹ Fakultas Hukum, Universitas Muhammadiyah Surakarta (C100190254@student.ums.ac.id)² Fakultas Hukum, Universitas Muhammadiyah Surakarta (Mk122@ums.ac.id)**ABSTRACT**

This research aims to examine law enforcement against children who are perpetrators of the criminal act of baby dumping committed by the Klaten Resort Police. The act of baby dumping is an act carried out by someone who deliberately leaves a newborn child to be found by someone else with the intention of letting the child escape. his responsibility. In Diklaten there has been a case of baby dumping carried out by class III junior high school students. This research uses empirical juridical methods of a qualitative type with interviews conducted at the Klaten Police Station. Regarding criminal law, children as perpetrators of baby dumping are regulated in criminal law regulations in the Criminal Code and criminal law regulations outside the Criminal Code. Protection of children's rights as perpetrators of baby dumping in the criminal justice process can be carried out through diversion efforts such as those carried out in the case of baby dumping in Wurung Rejo Hamlet, Bawukan Village, Kemalang sub-district, Kab. The obstacles faced by the police in enforcing the law against children who commit the crime of dumping babies are divided into two: preventive, namely that the community has narrow thinking and does not want to develop, even though there has been education about the dangers of free sex and its impacts as well as other legal education, while repressive, namely that the police find it difficult to find perpetrators because people who are pregnant outside of marriage hide their pregnancy from family, society and peers

Keywords: Law Enforcement, Perpetrators, Children, Abandonment of Babies**INTRODUCTION**

According to the 1945 Constitution, the Indonesian state is a legal state in a broad sense, which guarantees the basic rights and obligations of citizens or humans, promotes people's welfare and social justice based on Pancasila.¹ Arif Gosita stated that legal certainty needs to be sought for the continuity of child protection activities and to prevent abuses that lead to undesirable negative consequences in the implementation of child protection, arguing that child protection is an effort to protect children from carrying out their rights and obligations.²

Child protection as intended by law number 35 of 2014 concerning amendments to law number 23 of 2002 Article 1 paragraph 2, child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop and participate optimally in accordance with with human dignity and dignity, and receive protection from violence and discrimination.³ Article 2 of the *Burgelijk Wetboek* (BW) states that a child who is still in the mother's womb is considered a legal subject as long as the child's interests require it. According to Law Number 23 of 2002 article 1 paragraph 1, a child is someone who is not yet 18 years old, including children who are still in the womb. including children who are still in the womb. So, one form of crime that often occurs is none other than cases of baby dumping,

¹ Barada Nawawi Arief, 2008, *Kumpulan Hasil Seminar Nasional ke-1 s/d ke Nasional*, Semarang : Pustaka Magister

² Arif Gosita. 1989. *Masalah Perlindungan Anak*. Jakarta : Akademi Pressindo

³ Undang-undang Nomor 35 Tahun 2014 Tentang perubahan undang-undang 23 Tahun 2002, *Tentang Perlindungan Anak*

even though Article 305 of the Criminal Code (KUHP) states that this act is part of a criminal act for which the perpetrator receives a prison sentence under Article 308 of the Criminal Code.

Seothers are regulated in positive law, pepe's actionstrow away the babyothers are prohibited by oleh religion, too memake it one of the beto go tothat's evilfacing peRikehumanity, becausena tethat's meviolate the right to lifesepeople who don'trdosa.if pete's creationrsebut tethat's itplan terlefirfirst and do it oleh biological parents then pete's creationrsebut it will be donesubject to criminal sanctions, peactions that are prohibited by oleh a rule of law, which prohibitions are setchain of threats (sanctions).form of criminal tertethat's right, for anyone who wants mebreaak the ban tersebut.⁴

There are a lot of minors nowadaysreport in the case of pedump the baby on mehe is both local and mehe's national⁵One of the cases pethrow away the babyhappened in the ravine of Wurung Re HamletJo, Desa Bawukan, KeKe sub-districtpoor thing, Klaten Java Tengah on 7 FeMay 2023.⁶Satrepolice criminal investigations claten mekeep it safePE people do pethrowing away a still-born babyrsetatus pestudying middle school

Bevarious factors that mebbackground beignore the pe casethrowing away babies, among other things, becausena pepproblem ea economy that I can't affordmenuhi kethe baby needs and bel hope someone will help mepick up the babyrsebut, tothen curryna baby tersebut meNderita kedifferent semy waydis, sehe continued to mecover up your disgracena baby tersebut was born outside PElegal marriage and marriagena baby tersebut not wanted toOle's presenceh his biological parents.⁷

Then dejust a pe casethrow away the babyhappened in Klaten, meindicates that selt's been a long time pe effortncegahan benot done yetmaximum way. This is beas a result of children's rights to live and berkesis, norpenuhi. Penelt is felt that the law is still very minimally enforced.

Berbased on backgroundIf you solve the problem above, then pewrite meformulate the problem selike befollows: (1) How does the third partypolice in peneit's not legaltowards your childcommitting criminal actsdumping the baby in Klaten (2) What obstacles does the third party facepolice in peneit's not legaltowards your childcommitting criminal actsdumping the baby in Klaten.

The goal henot achieved pewrite in penelitians are: (1) For mestudy and meNyeinvestigate peneit's not legaltowards your childsell tethe occurrence of criminal actsdumping the baby is done by oleh Topolice Resor Klaten. (2) For mengeknew pe obstaclesneit's not legaltowards your childcommitting criminal actsdumping the baby in Klaten.

RESEARCH METHODS

MetodepeneThis litian is juridical *eempirical*. Jenis penelitian used by oleh pewrite is descriptive. PeneThis research was carried out dejust metake the location of the districtn claten, sourcer data⁸(1) Prime Datar (2) Data SeKunder. Metodepedata collection, namely the studylibrary and medo an interview. Peanalyze the legal materials studiedruse teknik dequalitative descriptive.

⁴ Sudaryono & Natangsa Surbakti, 2017, Hukum Pidana, Surakarta: Muhammadiyah University Press,hal.94

⁵ Taufiq Sidik Prakoso, Solopos.com, Selasa 7 Febuari 2023 18 WIB Polisi menangkap pelaku anak dibawah umur ini tindak pidana pembuangan bayi Jurang desa bawukan <https://www.solopos.com/terungkap-ibu-bayi-yang-ditemukan-di-kemalang-klaten-ternyata-masih-anak-anak-1545046>

⁶ Detik.com, Selasa 7 Febuari 2023 19:00 WIB: Terungkap Pembuangan Bayi di Bawukan Lereng Merapi Klaten Ternyata Siswi SMP, dalam <https://www.detik.com/jateng/hukum-dan-kriminal/d-6556898/terungkap-pembuang-bayi-di-bawukan-lereng-merapi-klaten-ternyata-siswi-smp>. Diakses Minggu 5 Maret 2023 pukul 20.45WIB.

⁷ Muryanti, N. N. (2021) PEMBUANGAN BAYI DALAM PERSPEKTIF HAK ASASI MANUSIA.Jurnal Hukum Saraswati (JHS)

⁸ Kudzaifah Dimiyati dan Kelik Wardiono, 2004, Metode Penelitian Hukum, Surakarta: UniversitasMuhammadiyah Surakarta,hal 8

parentsngknow when your child is excitedrsebut pregnant out of wedlock.

- 2) Age pestill sellingrgroup remaja so pethinking is still unstable. Age factor berimpact toon toripel thinkNyeBabkan child is still hornyclassified as unstableuntil it doesn'tthink long
- 3) Lemah kefaith and value religious

Religion is westernized selike pengepe controlbehavior sesepeople. When tofaith sesethat person lemah ceNderung menerhyme the same valuesbethat's rightresistance to religious values. When tostrong faith then automatically sesepeople know which one is good meaccording to religion and which ones are bad. Selndeed, adultery is a crimethere's a lot of fussji yang mebeyond any measure and a very bad way in mechannel and mesatisfy tobiological need.

﴿ وَلَا تَقْتُلُوا أَوْلَادَكُمْ﴾ Previous ٣١ ٥

Meaning: "And do not mekill your children becauseI'm afraid of being poor. We are the memberi rezeki keon mereka and keto you. Mekill mereThat's really a sinsar".

Paragraph tersebut menjeexplain that Allah is meBan Muslimskill my childrenreka sepemeaning of what is done bebeseveral tribes of Arabs. Allah bethe word, and do not mekill your children becausena afraid topoverty will mehappened to mereka. We will do itmberi rezeki keon mereKa, you're not the one memberi rezeki keon mereyou and we are also memberi rezeki keto you. Don't be mencecook mereka karena kepoor then oleh sethat chapter is you mekill him.

- 4) Juridical reasons

Juridical reasons for PE casesthrow away the babyhappened in del brought it tosubdistrict tounfortunate and this thing peneliti medo an interview tefacing the Police PPA Units Klaten in this case is for mengekno the legal reasons pel'm doing itdo methrow away the baby. Aasan meDumping the baby was done by Oleh PE childsell curryna afraid tol know my parents, Karena pregnant out of wedlock, ketika pesell itcheck pesell sebel'm sorryngknow that peactions are prohibited by religion and if youyou will knowprison.

- b. Pecriminal regulations techild relationshiplike pedo pethrowing away the baby

Law sethen melekat on tohuman life seas individuals and society. Bergai pethe rule of law befuction meneput things in order and memanage pesocializing in societyrta meNyelesolve problems that arise withinsocial life.⁹One of the problems that arise in society is mecivilize seks bebas outside PERwedding seuntil meNyebabkan keunexpected pregnancy, even seks outside peThe wedding was done byh minors tothen curryna kescared childrsebut methrow away my babyreka sealone. Pemy child's creationdo pejust throw away the babylas meconstitutes a criminal act and mebrea pecriminal law regulations.¹⁰

Become here pel'll writeexplain pecriminal law regulations techild relationshiplike pedo pedumping babies in the Criminal Code and peexisting criminal law regulationsfound outside the Criminal Code, namely selike befollowing:

- 1) article 305 of the Criminal Code which meload totesir that:

"Whoever I amneput children of the same agenot seven years to dieface or meleave the child dejust meant for meleconform to it, threatened dejust a criminal offense imprisonment for a maximum of five years enam month"

Meaccording to letter PENjereview of the draft Criminal Code Beland my excuses committing this criminal act is that dejust two pegsThis is what I didchildren are held in kethings don't happenrplease. Article 305 bapplies when it comes to the personcriminal behavior only exists tomoral obligation not to meleave the child behind concern.

- 2) Article 308 of the Criminal Code

⁹ Erfan Helmi Juni, 20012, Filsafat Hukum, Bandung: CV Pustaka Setia, hlm. 53-54

¹⁰ Soedjono Dirjosisworo, 1985, Bunga Rampai Kriminologi, Bandung: Amioo, hlm. 161.

"if security mother's persona afraid of being killed know people to the birth of his child, not long ago've done it give birth, menepit the child to be fed face or me leave him just meant for me comply with it, then the maximum penalty is tersebut in articles 305 and 306 minus sebak".

Based on Article 308 of the Criminal Code, dumping the baby is done by the biological mother of the baby because there is a mental disorder experienced by the mother until various rights are experienced by the mother who makes mom get aroused and throw away the baby.

1. According to Article 7 of Law Number 11 of 2012 regarding the system of child protection that:

1) Not looking for criminal punishment

pedumping babies in Wungu Re Hamlet, Desa Bawukan, Kecamatan sub-district, Kab. Klaten. threatened with article 305 with a penalty of five years to seven years, the penalty imposed is less than seven years. Also consider your child like a child. That's all that's how it is to fulfill the terms and conditions carrying out diversification and also consider the children's concerns, the case story is involved in carrying out a diversification

2) The aroused party involves carrying out a diversification

The parties involved in carrying out a diversification are the Head of the PPA Police Units Klaten, BAPAS Klaten, District Social Service. Klaten, PE Department of Child Protection, Kenutmeg Desa Bawukan Kecamatan sub-district.

In diversification, the parties involved are the parties related to the victim, the report, from the report, the LPA that we present is from the police, the unfortunate at that time and who was involved in children's behavior, the parties who attend a diversification from the police, BAPAS, DINSOS, PE Service of Child Protection, Kenutmeg desa penjete weld is as follows:

a. FATHER

Because the father considers that the child is still selling, Old Law Number 11 of 2012 regarding Juvenile Criminal Justice is still in progress, classified as a child, because the child is threatened with criminal penalties because it's under 5 years old because of the conditions for diversification

b. social services

District Social Service Klaten will prevent it from happening to throw the baby away because it won't get excited to come back just to the PE commission cooperation for protection of mother and child, will create a socialization program or build towards middle school, high school or vocational school students.

c. PE Department of Child Protection

Member assistance to the PE child and diversification so that children's rights can be protected for preventing the case occurred, through socialization through school

d. Kenutmeg Desa

Kenutmeg Desa Bawukan, Kecamatan sub-district member what has already happened so don't come back to the past. Completion of baby disposal in Bawukan village, Kecamatan sub-district, Klaten uses diversion, the children of the perpetrators of dumping babies through diversion are emphasized more on social law so that the children of the perpetrators can return to the community without being shunned, the goal of restorative justice can be achieved.

B. Obstacles faced by the third party police in preventing the child committing criminal acts dumping the baby in Klaten

Obstacles faced by the third party police in preventing the child committing

criminal actsThe baby's waste was shared by mebecomes two preventif and represhift:

1. Obstacles in Efforts Preventif
 - a. Meembed pemoral and educational educationformal education that will meadd and mempebroaden your horizonsrthink sesepeople, mecultivate religionearly for mempehave strong faithsevery good personrpeThe influence here is pethe role of parents and society.
 - b. A person who continues to do things according to his own opinion and according to his own conscience, not to carry out actions that are prohibited by religion. A person's lack of awareness tends to accept values that are actually contrary to religious values. If faith is strong then a person knows what is good according to his religion and what is prohibited.
 - c. Barriers to pre-effortsventif is that society sealone. TeSometimes society doesn't want meNdelisten pecounseling and still bethink peNdek, seexercisecounseling is not correctNot important though pethe counseling was very importantNting is going topublic awareness that pete's creationrsebut it's not worth doing and dejust the existence of pel can give you advicencegah pete's creationrsebut.
2. Barriers to Represhift
 - a. Tothe police are difficult for meneface pesell curryna people who are pregnant outside PEmy weddingNyeunmute toher pregnancy from tofamily, society and teman semiddle aged.
 - b. Tothe police are difficult for meneface pesell curryna in methrowing away the baby is not okaya bit in Daerah tel've got four to stayotherwise it's outside Daerah pein demand.
 - c. Effort peProof in PEgo to trialI'm having a hard timenefind article Brapa will be dropped karena pe childstill underage.

CONCLUSION AND SUGGESTION

Conclusions

That can be drawn from the results of the analysis and pediscuss the reasons that mebased on pesells for medo pepe's actionsdump the baby in del brought it tosubdistrict topoor is peact scared when you go toshe's pregnantyou knowh his parents were dikaregetting pregnant out of wedlock. PeI'm not doing enoughget pesupervision and controlattention from parents, peribadi who is still hornyclassified as unstableuntil it doesn'tthink long, lemah kefaith and value religius, lack of peattention from parents. Terkait deonly juvenile criminal lawlike pedo peDisposal of the baby is regulated in PEcriminal law regulations in the Criminal Code and PECriminal law regulations outside the Criminal Code. Bebewhat are the articles?that's itState the reason why not many articles were includedrap it upbalkan oleh bebeseveral factors, namely the PE apparatus factornenot legal, pe factorbehavior, pe factorNyeaccording to article PEMade. Pete protectiontowards children's rightslike pedo pedumping the baby in the processs pecriminal justice can be carried out mego through a dive attemptrsi seperti carried out in the case of pedumping babies in Wurung Re HamletJo, Desa Bawukan, keKe sub-districtpoor, Kab. Klaten.

Suggestion

Polices Klaten

Sethat's good lel'm more activeholding legal outreach in the regionmy schoolrememberbewhat are the cases? throwing away the baby is still there status pestudied and still teenager.

Peit needs to be donefor a LeMs. Social Community Peole baby shelterh Polices Klaten betorcooperation dejust pemecommand of the city of Klaten use meaccommodate the victim's babythrow it awayh his parents. NGO tersebut peneed to befor meRemembering that there are many married couples who don't love mehaves children and bel hopehave children and on the other hand there are mothers who don'tngheclimb tobaby's birthrsebut seuntil methrowing away the baby she gave birth torsebut.

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