

Research Article

The Implementation of General Principles of Convention on The Rights of The Child During Covid-19 Pandemic in The City of Serang

Ridwan*, Belardo Prasetya Mega Jaya, Sarah Haderizqi Imani
 Faculty of Law, Universitas Sultan Ageng Tirtayasa
 *ridwanfh@untirta.ac.id

ABSTRACT

Convention on The Rights of The Child is the most comprehensive international legal instrument of human rights to promote and protect rights of children. In the late 2019, Coronavirus Disease 19 outbreak started. This pandemic then has led to socio-economic impact as a result of preventive and controlling actions. This pandemic has also affected the fulfillment of child's rights including the rights of children in The City of Serang. This research was aimed at investigating the implementation of general principle of Convention on The Rights of The Child during Covid-19 pandemic in the city of Serang. This study applied normative research method, which is a research discussing legal aspects by studying literature sources on the applied regulations. The result of the study shows that the implementation of general principle of Convention on The Rights of The Child, consisting of the principle of non-discrimination, the best interest of the child, the right to life, survival and development, and the right to be heard, went well along with the establishment of Child Social Welfare Institute to serve children with special needs (LKSA), Integrated Service Centre for the Empowerment of Women and Children (P2TP2A) to receive complaints on the violation of children's rights, Serang's Children Forum as a media where children of Serang can participate. The implementation of the right to survival was not as good because Working group (Pokja) for adverse effect following immunization (KIPI) special for children has not effectively implemented.

Key words: Convention on The Right of The Child; Rights of Children; Child Protection; Covid-19; The City of Serang

A. INTRODUCTION

International treaty, according to Article 1 Number 1 Law Number 24 Year 2000 on International Agreement, is a written agreement having a particular form and name which has been planned according to international law and which shows rights and obligations in public law. In order to have a binding power towards the participated countries, an international treaty needs to be ratified. According to *Kamus Besar Bahasa Indonesia*, ratification is the legalization of data of a country by the parliament, particularly the ratification of laws, international treaties, and international legal

agreement. One of international treaty which has been ratified is *Convention on the Rights of the Child* (CRC). Convention on the Rights of the Child is an international treaty which regulates politics, civil rights, social rights, economic rights, and child culture (de Beco, 2013). CRC is an international treaty which is ratified by most countries in the world, with 196 countries as the convention party (Cummings, 2021).

Juridically, a child is defined in Article 1 number 1 Law No 23 Year 2002 on Child Protection, "A child is an individual which is not yet reached the age of 18 years old, including a child which is in his/her mother's womb. According to The United

Nations Convention on the Rights of the Child (CRC), “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” (UN General Assembly, 1989).

Law number 35 Year 2014 on Amendment to Law Number 23 Year 2002 on Child Protection stipulates that a child is a blessing from God The one and only, an individual with dignity attached in him/herself as a whole human being. In addition, a child is a successor with potential to be young generation that continues the aspiration of a nation, having strategic role and particular characteristics in manifesting and guaranteeing sustainable existence of a nation in the future. Therefore, The Republic of Indonesia guarantees the prosperity and wellbeing of its people and also the protection of children’s rights which are basic human right. In order to protect and provide welfare for children, the government needs to provide legislations and regulations to ensure and guarantee the implementation of child protection.

According to Barda Nawawi Arief, children’s human right is an effort to gain legal protection associated with all fundamental rights and freedom of children in order to manifest children’s welfare (Arief, 2005).

During Covid-19 Pandemic, the government implements health protocol as a prevention action against the spread of Covid-19 viruses. Various human daily activities have been transformed into a new form or way. One of the ways is to change face to face class into online class. This will impact on the child’s growth especially on physical, personality,

mentality, intelligent, character, and behavior growth. This situation is worsened by the uncertainty of when the pandemic will be over and when people can start to live normally again (Lubis, 2020).

Child’s protection during Covid-19 pandemic takes a lot of effort due to the fact that there has been a trend on the increase in child exploitation cases and also the vulnerable condition that a child must bear during Covid-19 pandemic. Therefore, the government implements some alternatives. One of the alternatives is called new normal. New normal is a new normal condition in that people’s social and economic activities run normally as before the pandemic, but accompanied with the implementation of some health protocols in order to prevent and protect people from the infection of the virus. This protocol is called 5M, consisting of wearing mask; washing hands with flowing water and soap; keeping distant; reducing mobility; and avoiding crowd.

By September 2021, data about Corona in The city of Serang has recorded the total of 4,796 positive Covid-19 cases with the total of 9 patients treated in hospitals. In the beginning of May 2021, the government has formed cross-sector protection protocol for children by accelerating the anticipation of Covid-19 spreading in order to extend the effort to prevent the infection of Covid-19 in children, a group which is more prone to disease. According to the Ministry of Women Empowerment and Child Protection, the implementation of the protocol aims to provide children protection from the pandemic and to guarantee the fulfillment of their rights during the pandemic. In addition, by the 2nd of September 2021, The city of Serang was the only city within Banten

Province which was in orange zone status, meaning that the level of Covid-19 virus spread was at moderate risk while the other seven districts and cities were in yellow zone status, meaning that the level of Covid-19 virus spread was at low risk.

In a research, theoretical framework is essential because it contains various relevant theories which will be used as references to discuss and elaborate the problem being researched. Theoretical framework is necessary so that the research fulfills scientific procedure.

This research used the theory of child protection. Child's protection according to Article 1 number 2 Law Number 35 Year 2014 on Amendment to Law Number 23 Year 2002 on Child's Protection is any activities to guarantee and protect Children and their rights so that they can live, grow, develop, and participate actively in any opportunity they have based on human dignity, and receive protection from violence and discrimination. The implementation of child's protection is an obligation and responsibility of the government/the country. This protection shows that there is serious concern from the government as part of their responsibility to their citizens, including children citizens (Indriati et.al, 2017).

According to Lucia Charlotta Octovina Tahamata "The State has the duty and role in protecting and guaranteeing the human rights of its citizens. Violations of human rights often occur against vulnerable groups, one of which is children. Children as vulnerable groups have special rights due to their limitations, so they need protection." (Tahamata, 2018).

This study will also analyze the implementation of principles regulated in Convention on The Rights of The Child. Convention on The Rights of The Child contains four general principles, namely: non-discrimination, The best interest of the child, The right to survival and development, and The right to be heard.

In the late 2019, the world was shocked by the outbreak of Covid-19 virus which has caused socio economic impacts as the result of the prevention and control measures. Some children even become more vulnerable in this situation, particularly the children without parents' caring, the children in alternative care, and the children who have just left alternative care, including the children in The city of Serang. This condition has caused some problems regarding the fulfillment of the children's rights.

Children's protection during Covid-19 pandemic needs maximum effort because children become more vulnerable during this pandemic. Therefore, a study on how the implementation of general principles of Convention on The Rights of the Child during Covid-19 pandemic in the city of Serang is needs to be conducted.

There have been some previous studies on the implementation of general principles of Convention on The Rights of The Child. First is a study by Raissa Lestari and Yuli Fachri entitled "The Implementation of International Convention on Child's Rights (Convention on The Rights of The Child) in Indonesia (a study case: Violation against Child's Rights in Riau Islands Province between 2010 and 2015)". In this study, the authors concluded that the implementation

of Convention on The Rights of The Child in Riau Islands has not been successful because approaches taken there were not implemented as what was expected, and also the obligations were not completely fulfilled as it was supposed to be (Lestari, & Fachri, 2017).

The second is a study by Silvia Fatmah Nurushshobah with journal publication entitled "Convention on The Rights of The Child and Its Implementation in Indonesia". The result of this study shows that Indonesia has some programs through The Ministry of Social Affairs (*Program Keluarga Harapan/ Family Hope Program, Program Rehabilitasi Sosial Anak/ Child's Social Rehabilitation Program*), The Ministry of Women Empowerment and Child Protection (*Puskesmas Ramah Anak / Child Friendly Health Center, Sekolah Ramah Anak/ Child Friendly Schools, PATBM, Kampung Anak Sejahtera/ Welfare Children Village*) (Nurushshobah, 2007).

The third is a study by Ikhsan et.al with journal publication entitled "The Effort of Child Protection in Criminal Trial in The Era of "New Normal" during Covid-19 Pandemic in Indonesia". This study concluded that the government's effort to protect children in this new normal era was by simplifying curriculum, providing facilities to online based study, improving educational service for children in villages; building cooperation to protect child's rights, and also the government must be professional, objective, proportional, transparent, and accountable (Ikhsan et.al, 2020).

The fourth is a study by Meydora Cahya Nugraheni & Hindina Maulida with journal publication entitled "Protection of Children in Child Learning

during the Covid-19 Pandemic Indonesia". This study concluded that as a country, Indonesia has an obligation to guarantee each and every citizen to be prosperous. Children have rights to receive protection for their rights in the form of human rights so that they can live properly and prosperously. A child as a blessing from God is like a precious gift from God that must be well taken care of. Although even they have not been an adult, a child has already got dignity attached in him/herself as a human being that must be protected (Nugraheni, & Maulida, 2021).

The fifth is a study by Fikri Nazarullail & Dewi Maskulin with journal publication entitled "The Understanding PG-PAUD Students' of University of Trunojoyo Madura about the Convention on the Rights of the Child". This study concluded that Indonesia is one of countries members of UN which implement Convention on the Rights of The Child (CRC) as an effort to give guarantee for the development and life of children. Guidance and Education about the rights of children stated in CRC are necessary. The improvement of the comprehension on this matter can be done through webinar, seminar, and so forth (Nazarullail, & Maskulin, 2021).

The sixth is a study by Hanne Hartoft with a journal publication entitled "Incorporating the UN Convention on the Rights of the Child into National Law". This study discusses "the exploration into the increasing international trend on the integration of CRC law into domestic law, highlighting various approaches which are used in one jurisdiction to another jurisdiction" (Hartoft, 2021)

Originality or what makes this study different from the previous studies is that this study focuses on the implementation of general principles of Convention on The Rights of The Child during Covid-19 pandemic in the city of Serang.

B. RESEARCH METHODS

This study used normative juridical research method. This study was conducted by doing literature study in order to find the philosophy to observe way of thinking, official standard and structures which will then regulate certain issues (Soekanto, & Mamudji, 2001).

This study also used qualitative approach, an approach used to test the result of a research generating outstanding examination of information, particularly information which is obtained from respondents in written or spoken form as well as real behavior, which is explored and is considered thoroughly (Fajar, & Achmad, 2013). Qualitative method does not need population and samples (Ali, 2016).

C. RESULTS AND DISCUSSION

1. Protection of Child's Rights Relevant to Covid-19 Pandemic

a. Non-discrimination

Article 2 number 1 CRC stated that:

"States Gatherings will regard and guarantee the privileges set out in the current Show to every youngster inside their locale without segregation of any sort, independent of the kid's or their parent's or legitimate watchman's race, shading, sex, language, religion, political or other assessment, public, ethnic or social beginning, property, incapacity, birth or other status."

Article 2 number 1 CRC mandates that member countries to respect and guarantee rights of every child stated in their jurisdiction without any sorts of discrimination. The concept of non-discrimination in discussion context is related to child's rights and various types of sexes, gender, and sexuality (Gillett-Swan, & van Leent, 2019).

Committee in its interpretation of Article 2 admitted that the capacity of a child or his/her weakness can be the root of discrimination when the children's access to rights under UNCRC was refused or limited. Although "the ability to develop" indirectly cited in the interpretation of Article 2, this principle still has role in the interpretation of non-discrimination, making sure that the child's capacity or lack is not used as the basis to deny or limit their access to rights under UNCCR (Varadan, 2019).

b. The best interest of the child

Article 3 number 1 CRC mandates that the best interest of the child will become the main concern in all their activities, "In all activities concerning kids, regardless of whether embraced by open or private social government assistance organizations, official courtrooms, managerial specialists or administrative bodies, the wellbeing of the youngster will be an essential thought."

Committee drew important relation between capacity to develop of a child and the best interest of a child in Article 3. It is admitted that when the capacity of a child develops, the focus must be directed to his/her view in determining the best interest. Therefore, as a interpretative principle, "capacity which develops" plays a significant role

in keeping the balance contained in Convention between 'recognizing children as active agents in their own life, having rights to be heard, respected, and given gradually greater autonomy in their rights' while still making sure that each and every child receive a unique protection they need suitable to the relative immaturity and youthfulness (Varadan, 2019).

c. The right to survival and development

Article 6 CRC stated that: "(1) States Gatherings perceive that each youngster has the intrinsic right to life. (2) States Gatherings will guarantee to the greatest degree conceivable the endurance and improvement of the youngster."

Article 6 CRC guarantees that each and every child has rights to live which are guaranteed in the highest level of their well-being and development. The committee admitted that enabling a child to use his/her right (such as right to be heard) stimulates their development, and thus contributes to the realization of the development according to Article 6.

In General Comment No. 12, the committee explains that: Child's participation is instrument to stimulate full development of their personality and developing capacity as in accordance with Article 6 and with the goal of education contained in Article 29 (emphasis added) (Varadan, 2019).

d. The right to be heard

Article 12 CRC states that:

"(1) States Gatherings will guarantee to the kid who is equipped for framing their own perspectives the option to communicate those sees openly in all matters influencing the kid, the perspectives on the youngster being given due

weight as per the age and development of the kid. (2) For this reason, the youngster will specifically be given the amazing chance to be heard in any legal and authoritative procedures influencing the kid, either straightforwardly, or through a delegate or a proper body, in a way reliable with the procedural standards of public regulation."

Article 12 CRC guarantees children's rights to communicate their own perspective without any interference about all the things related to them. According to Laura Lundy, "Article 12 of CRC gives children the right to have their views given due weight in all matters affecting them" (Lundy, 2007).

According to the aforementioned explanation, it is clear that children have right to be heard and use the right to ensure that their views are taken seriously according to their age and maturity. Children must understand that they have right to express their view, and is given chances to express it verbally and non-verbally, and this must be regulated in national legislation (Robinson, Quennerstedt, & l'Anson, 2020).

2. The Implementation of General Principle of Convention on The Rights of The Child During Covid-19 Pandemic in The City of Serang.

The idea regarding child's rights began when The World War 1 ended as a response to the suffering caused by war trauma experience they had been through, particularly the sufferings experienced by women and children. At that time, the surrounding countries were driven to realize the idea for the reason that there had been so many children lost their parents and families during the conflict. The development which becomes the foundation of the

possibility of children's privilege rights coming from the development of female activists which protested and demanded the country consideration for the sake of children who had become the victims of the war. One of the activists was an activist of Save the Children association named Eglantyne Jebb. Eglantyne Jebb developed ten points plan of Declaration of the Rights of the Child which then in 1923 was adopted by an institution called Save The Children Fund International Union.

In 1959, Unified Nations General Get Together gave explanation about children privileges which was the second global presentation on child freedom. In 1979, when International Year of The Child was announced, the Government of Poland suggested report plan which determined global norms for the recognition of privileges rights of children and legally limit them. This proposition then became the beginning of the definition of CRC. Finally on the 20th of November 1989, CRC was ratified by UN General Assembly and started to have coercive power since September the 2nd 1990 (Lestari, & Fachri, 2017).

CRC is legal instrument within human rights domain which is the most comprehensive to promote and protect children's rights. CRC was ratified in Indonesia in 1990 through the Presidential Decree number 36 Year 1990 on Ratification of Convention on the Rights of the Child. Twelve years later, in 2002, Indonesia adopted this Convention into Law Number 23 Year 2002 on Child Protection which then in 2014 was amended into Law Number 35 year 2014 on Amendment to Law Number 23 year 2002 on Child Protection.

According to Shazeen Suleman et. al., "*Some provinces have committed to supporting youth who would otherwise age out, but this is not uniform across the country, leaving them vulnerable to homelessness, food insecurity, and worsening mental health outcomes*" (Suleman et.al, 2020). The city of Serang was the one and only city in Banten Province with orange zone status or with moderate risk of Covid-19 virus spread per 2nd September 2021, while another seven districts and cities had been in yellow zone status or with low risk of Covid-19 virus spread. This condition definitely needs attention and particular effort to protect children as part of the group which is vulnerable to disaster. The implementation of child's protection is the obligation and responsibility of the government/country. The government has to guarantee and protect children and their rights by implementing the principles and provisions stated in Convention on The Rights of The Child which has been ratified by the government of Indonesia. The following is protection and fulfillment of children rights and the implementation of general principle of Convention on The Rights of The Child in the city of Serang:

a. The Implementation of Non-Discrimination Principle

In national law, the definition of discrimination is stated in Article 1 number 3 Law Number 39 year 1999 on Human Rights, "Discrimination means all limitations, affronts or ostracism, both direct and indirect, on grounds of differences in religion, ethnicity, race, group, faction, social status, economic status, sex, language, or political belief, that results in

the degradation, aberration, or eradication of recognition, execution, or application of human rights and basic freedoms in political, economic, legal, social, cultural, or any other aspects of life. The principle of non-discrimination was stated in Article 1 Number 2 Law Number 35 Year 2014 on Amendment to Law Number 23 year 2002 on child Protection, "Child protection is any activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in line with dignities of humanity, as well as acquire protection from violence and discrimination." The principle of non-segregation is also stated in Article 2 section (1) Serang City Local Regulation Number 7 Year 2013 on Child and Women Protection which proves that one of the principles in the implementation of child and women protection is non-discrimination.

In 2020, it is recorded that in Serang city there were 30 Children Social Welfare Agencies (*Lembaga Kesejahteraan Sosial Anak* (LKSA)) which all can accommodate more than 1,448 children with both young male and female groups. LKSA was built and is managed by the people who make effort to provide elective consideration climate for children with disability so that they can build their real capacity through the management of caring which is supportive and adequate for their development and improvement. The form of another implementation of this principle is an event called Launching of Modified Motorcycles created by Deaf Disabled Students of Special Public School 02 Serang City on 7th September 2021. Therefore, this means that the principle of non-discrimination has been well implemented.

b. The Implementation of The Principle of The Best Interest of the Child

The best interest of the child in CRC is classified into four categories; one of the four categories is the right to protection. If there is violation of child's right to protection, members of society who witness the violation should report to Integrated Service Centre for the Empowerment of Women and Children (P2TP2A) Serang city. Based on the data obtained by P2TP2A Serang city, there were 17 cases of child harassment handled since January to April 2021. Therefore, the principle of the best interest of the child has been well implemented.

c. The Implementation of The Right to Survival and Development

This principle is included in the principle of the best interest of the child because the survival and development of a child is one category of the best interests of the child in CRC.

One of the efforts which implemented this principle during Covid-19 pandemic is the implementation of vaccination program for children aged 12 to 17 years old. Nevertheless, the implementation of vaccination for children in the city of Serang per 23rd July 2021 was not effectively implemented because the officials still need to wait for the completion of Working Group (Pokja) for adverse effect following immunization (KIPI) special for children. Therefore, the principle of the right to survival and development has not been well implemented.

d. The Implementation of The Views of The Child

The respect to child's view, the child's right which must be fulfilled is the right to participate. A

child support is the participation of children in dynamic cycle about everything related to them and is performed with full attention, comprehension, and mutual willingness so that children can take part in the result or advantages of these options. The government of the city of Serang through Women Empowerment, Child Protection, and Family Planning Agency Serang City promotes an organization called *Forum Anak Kota Serang* (Serang City Child Forum) as a forum for Serang children to participate in as the form of recognition to child's view.

Children Forum is a forum for children's interests in that the children become the representative of their groups or personal and is managed by public authority to direct goals, voices, sentiment, wishes, and needs of the children in improvement cycles (Article 1 number 8 Ministerial Regulation PPPA Number 18 Year 2019 on The Implementation of Child Forum). The children of Serang city which participate in Forum Anak Kota Serang are actively invited to Development Planning Consultation Forum (Musrenbang) from village level, sub district level, to Serang City level on 15th March 2021. Forum Anak Kota Serang has also been given chances to deliver points of Suara Anak Kota Serang 2021 before Serang Mayor, Bunda PAUD Serang City (Early Childhood Education Organization), and The Head of Women Empowerment, Child Protection, and Family Planning of Serang City Agency in the celebration of National Children's Day Serang City level on 8th September 2021. Therefore, the principle of respecting the child's view has been well implemented.

Based on the analysis and the aforementioned elaboration, it can be said that the local Government of Serang City has guaranteed and protected children and their rights without any sorts of discrimination. General principles of CRC have been implemented in the legislations regulated by The Local Government of Serang City and in the programs of Serang city Local Government.

D. CONCLUSION

According to the result of this study on the implementation of general principles of CRC during Covid-19 pandemic in the city of Serang as elaborated previously, it is concluded that during Covid-19 pandemic, The Local Government of Serang City has made various efforts to guarantee and protect children and their rights without any sorts of discrimination.

The Local Government of Serang city implemented disaster control during emergency response with the scope of protection for vulnerable groups, one of them is children group, by running various programs and making various efforts under the general principles of CRC. The implementation of the first, second, and fourth principles have been well executed, however, the implementation of the third principle were not yet well implemented, there was still some problems faced. First, the principle of non-discrimination is implemented by forming LKSA for the unfortunate children and by holding activities which involved children with special needs (ABK); The second, the best interest of the child is implemented by providing P2TP2A Serang city which receives complaint and reports regarding violation

against child's rights to protection and by providing psychological and legal counseling for the affected children; The third principle, the survival and development, is implemented by holding vaccination for children. However, the implementation of this program by 23rd July 2021 was not effective. This is deeply regretted considering that during Covid-19 pandemic, vaccination is vital, adding to the fact that in the city of Serang, there have been many schools hold face to face learning; The last, the view of the child, is implemented by involving Forum Anak Kota Serang in Musrenbang and gives them chances to express themselves and deliver aspiration of Suara Anak Kota Serang in 2021 during the celebration of National Children's Day in Serang City in 2021.

The related programs and efforts are some actions taken by the Local Government of Serang city which are the implementation of general principles of CRC. There are still many other programs and efforts which support the implementation of CRC in Indonesia, it is expected that government programs can curb child problems in Indonesia, particularly during Covid-19 pandemic.

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