

# Aksesibilitas Hak Atas Pendidikan melalui Identitas Hukum bagi Anak Terlantar berdasarkan Keberlakuan Pasal 4 ayat (1) Undang-Undang Nomor 20 Tahun 2003 (Studi Kasus di Yayasan Gemilang Indonesia, Jakarta Selatan, DKI Jakarta) = Accessibility of the Right to Education through Legal Identity for Abandoned Children based on Applicability of Article 4 paragraph (1) of Act Number 20 of 2003 (Study Case at Yayasan Gemilang Indonesia, South Jakarta, DKI Jakarta)

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## Abstrak

Pemenuhan aksesibilitas hak atas pendidikan merupakan kewajiban yang diselenggarakan oleh negara. Dalam praktiknya, peluang aksesibilitas hak atas pendidikan mengharuskan adanya pengakuan negara melalui identitas hukum. Keduanya bersinggungan tatkala identitas hukum menjadi prasyarat untuk mengakses pendidikan. Berdasarkan Pasal 34 ayat (1) UUD NRI 1945, eksistensi anak terlantar disebutkan secara jelas dan tegas. Problematika timbul ketika anak terlantar tidak memiliki identitas hukum, sehingga tidak dapat mengakses pendidikan. Maka, penelitian skripsi ini mengangkat permasalahan utama tentang upaya pemerintah dalam memberikan pemenuhan aksesibilitas hak atas pendidikan melalui identitas hukum bagi anak terlantar yang ditinjau dari keberlakuan Pasal 4 ayat (1) UU No.20/2003, serta praktiknya di dalam masyarakat. Penelitian ini digunakan metode socio-legal melalui pendekatan kualitatif. Data berupa bahan-bahan hukum dikumpulkan melalui studi kepustakaan didukung dengan hasil observasi di Belakang Taman Ketapang, Pasar Minggu, Jakarta Selatan, serta wawancara terhadap beberapa pihak, seperti KPAI, LPAI, PUSKAPA, dan Yayasan Gemilang Indonesia. Dari hasil analisis dapat dinyatakan bahwa upaya pemerintah dalam memberikan pemenuhan aksesibilitas hak atas pendidikan melalui identitas hukum bagi anak terlantar dapat dilihat melalui implementasi Program Wajib Belajar hingga Pendataan Penduduk Rentan Adminduk. Analisis keberlakuan Pasal 4 ayat (1) UU No.20/2003 yang dikaitkan dengan indikator “tidak diskriminatif” sebagaimana pendapat Katarina Tomasevski, dimaknai bahwa aksesibilitas pendidikan dilakukan melalui penghapusan hambatan terhadap hukum dan administratif. Ketiadaan identitas hukum bagi anak terlantar menjadi aspek krusial yang memberi batasan dan/atau hambatan terhadap pemenuhan dan perlindungan kepentingan anak. Melalui kondisi masyarakat di Belakang Taman Ketapang, Pasar Minggu, Jakarta Selatan, ditemukan terdapat berbagai faktor internal maupun eksternal yang menjadi celah pemenuhan aksesibilitas hak atas pendidikan bagi anak belum terpenuhi secara optimal. Bahwa seyogyanya pemenuhan aksesibilitas hak atas pendidikan melalui identitas hukum bagi anak terlantar tidak serta merta dikatakan diskriminatif, tetapi memiliki potensi diskriminatif.

.....The fulfilment of the accessibility of the right to education is an obligation held by the State. In practice, opportunities for accessibility of the right to education requires state recognition through legal identity. For two by that intersect are in conflict when legal identity becomes a prerequisite for access to education. According to the Article 34 paragraph (1) UUD NRI 1945, the existence of the abandoned children was mentioned so explicitly also clearly. The problem arises when the child displaced doesn't have a legal identity, so they can not access to education. Thus, this thesis reseacrh raises the main issues about how the government's providing the fulfilment accessibility of the right to education through legal identity for the

abandoned children by the terms of Article 4 paragraph (1) of the Act Number 20/2003, as well as its practice in society. This research use a socio-legal methods and through with qualitative approach. Data on legal material were collected through literature studies supported by observations at Belakang Taman Ketapang, Pasar Minggu, South Jakarta, also interviews with several parties, such as KPAI, LPAI, PUSKAPA, and Gemilang Foundation Indonesia. The results of the analysis it can be stated that the efforts of the government in providing the fulfilment of the accessibility of the right to education through the legal identity of the abandoned children can be seen through the implementation of the Compulsory Learning Programme, the City Decent Children Policy, and the Data Collection of Vulnerable Population Administration. Analysis the implementation of the Article 4 paragraph (1) of the Act Number 20/2003, which is associated with the indicator of “non-discrimination” as argued by Katarina Tomasevski, means that accessibility of education is carried out through the removal of obstacles to law and administrative barriers. The absence of legal identity for the abandoned children’s be a crucial aspect that constrains and/or obstacles to the fulfilment and protection of the children's interests. Through the conditions of the community at Belakang Taman Ketapang, Pasar Minggu, South Jakarta, was found that there are various internal and external factors has a constitute gaps in the fulfillment accessibility of the right to education for abandoned children had not been fulfilled for optimally. That the implementation of the accessibility of the right to education through legal identity for abandoned children is not immediately said to be discriminatory, but has a potential for discrimination.