

Juvenile Offenders and Criminal Sanctions: A Legal Perspektive on Child Perpetrators Of Violence

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ABSTRACT

This research aims to analyze criminal sanctions applied to child perpetrators of violence in Indonesia with a focus on aspects of rehabilitation and child protection. Using a qualitative approach, this study found that criminal sanctions for children are not only oriented towards punishment but also towards recovery and social reintegration. Factors that cause violence, such as family background and social environment, contribute to children's behavior. The results of this study indicate the need for a comprehensive approach to law enforcement and efforts to prevent violence among children. This research recommends improving rehabilitation programs and more effective legal protection for children in conflict with the law.

Keywords: Criminal Sanctions, Child perpetrators, Criminal Justice System.

Introduction

Indonesia as a state of law, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, underlines the obligation of every individual to comply with the applicable law. This principle emphasizes that no one can avoid legal accountability, and every action must be based on existing legal provisions. Law has the main objective of realizing an orderly, prosperous, and just society, as stated in the preamble of the 1945 Constitution. In this context, law is an important instrument that regulates social interactions with the main objective of creating order (Hamdani, et al, 2024; Damaitu, et al, 2024; Rikawati & Lestari, 2024; Fransisco, 2020). Continuing from the explanation of the function of law, criminal law, which is regulated in the Criminal Code (KUHP), has two main objectives: maintaining public order and tackling and preventing crime. Through the imposition of strict sanctions, criminal law serves to protect the interests of individuals, society, and the state (Asafari & Hakim, 2023; Parindo, et al, 2024). The application of harsh criminal sanctions is expected to act as the last step (*ultimum remedium*) in solving social problems (Suarni, et al, 2024; Sumardi, et al, 2022). However, the growing phenomenon of crime, especially those involving children, raises questions about the effectiveness of criminal law as a tool to achieve this goal.

In responding to this challenge, it is important to understand that crimes involving children are not just legal issues, but also complex and dynamic social issues, which are closely related to the values and norms prevailing in society. As stated by Merjono Reksondiputro, crime cannot be completely eliminated in society, but can only be minimized to a certain tolerance limit. Therefore, efforts to prevent and handle crimes involving children must involve various parties, including families, communities, and government agencies. Following the explanation of the factors that influence juvenile crime, children can engage in violent behavior due to various interacting factors, such as an unsupportive family environment, association with groups that encourage aggressive behavior, and traumatic experiences as victims of violence. In addition, lack of moral education, low self-control, and mental health disorders also contribute to children's violent behavior (Tasya and Gusti Grehenson, 2024; Zahrawaani & Nurhaeni, 2020; DP3A Tangerang District, 2023). Understanding the

complexity of these factors is crucial in designing effective solutions to address the problem of crimes involving children.

In this context, it is important to recognize that children involved in criminal acts not only need to be held accountable for their actions, but are also entitled to adequate legal protection. Law No. 11/2012 on the Juvenile Criminal Justice System provides a clear legal framework for dealing with children in conflict with the law. As stated by Romli Atmasasmita, criminal acts committed by children need to be understood in a broader legal and social context (Rianda & Pratama, 2024), so that the handling and rehabilitation of child offenders becomes a priority in the justice system.

Based on this background, this article aims to discuss criminal sanctions for child abusers, with a focus on juvenile criminal justice arrangements and the necessary legal protections. This research seeks to explore the extent to which the criminal justice system in Indonesia can provide justice and protection for children, as well as the challenges faced in its implementation. Through a systematic approach, it is hoped that effective solutions can be found to address these issues in order to achieve justice for children and society as a whole. This article aims to analyze the regulations on juvenile justice in Indonesia, specifically focusing on the application of criminal sanctions against children who commit acts of violence that result in death. This research aims to provide an in-depth understanding of how criminal sanctions are applied in the context of juvenile law, as well as the challenges and obstacles faced in their implementation. Thus, it is hoped that this article can make a significant contribution to the development of criminal law theory and practice related to child protection.

In an effort to understand criminal sanctions for child perpetrators of violence, this research proposes several hypotheses that focus on the relationship between the application of these sanctions and the effectiveness of legal protection for children in Indonesia. The main hypothesis proposed is that there is a significant relationship between the application of criminal sanctions against child perpetrators of violent crimes and effective legal protection efforts for them. As such, this research aims to explore how the sanctions applied can contribute to safety and justice for children involved in acts of violence.

More specifically, this research also explores several derived hypotheses. First, criminal sanctions applied to juvenile offenders are expected to influence the prevention of criminal acts among children in the future. In addition, the second hypothesis highlights the importance of a rehabilitative approach, with the argument that the application of rehabilitative criminal sanctions is more effective in reducing the level of reoffending compared to retributive sanctions. This suggests the need for in-depth thinking regarding the type of sanction chosen in the context of juvenile law. Furthermore, there is an additional hypothesis that focuses on the factors that influence the effectiveness of sanctions. In this case, it is proposed that there are differences in the effectiveness of criminal sanctions applied to child perpetrators of violence based on socioeconomic background, education, and family environment. This indicates that a more holistic approach is needed to understand the dynamics behind violent offenses committed by children.

To enrich the understanding of the social context behind this phenomenon, an additional hypothesis is also proposed. A lack of public understanding of criminal sanctions for child abusers may contribute to negative stigma against them, which in turn hinders social reintegration. Therefore, this study seeks to assess how the availability of rehabilitation programs and psychological support can positively influence the successful reintegration of child offenders into society. By integrating these various hypotheses, it is hoped that this research can make a meaningful contribution to the understanding and handling of the problem of violence involving children in Indonesia. This research has theoretical and

practical uses. Theoretically, it is hoped that this research can contribute new knowledge that broadens insights in the development of legal science, especially in the field of criminal law. This research is expected to be a reference for academics and legal practitioners in understanding the complexity of criminal sanctions against child abusers. Practically, this article also aims to provide thoughts and recommendations in handling the legal protection of children involved in criminal acts, so that it can be a reference for the authorized parties in carrying out the juvenile criminal justice system.

To avoid multiple interpretations in understanding the content of this article, several terms used need to be clearly defined. First, criminal sanction is the imposition of punishment on someone who is found guilty of committing a crime through a legitimate judicial process, with the hope of preventing the recurrence of similar criminal acts. Second, children are defined as individuals under the age of 18, including those still in the womb, as stipulated in Law Number 23 of 2002 concerning Child Protection. Third, child offenders are children who are in conflict with the law because their actions violate statutory provisions. Fourth, criminal offense refers to an act that can be subject to criminal sanctions based on the applicable law, while the crime of violence is defined as an act committed intentionally that results in injury or physical damage to another person. By understanding this conceptual framework, it is hoped that readers will be able to follow the discussion with more clarity and direction.

The Concept of Crime in Law

Crime, in legal literature, comes from the Dutch term *straffbaar feit* (Wulandari, 2021), which literally means "punishable act". This concept refers to human actions that are against the law and are threatened with criminal sanctions by legislation. However, there is no single definition among jurists regarding criminal offenses. In practice, acts that are considered unlawful are not only based on their form but also contain elements of guilt (*mens rea*) and criminal liability (Prasetyo & Lasmadi, 2024; Toule & Sopacua, 2022). In general, criminal acts involve human actions categorized as crimes or violations, with elements of intent (*dolus*) or negligence (*culpa*) (Laia & Laia, 2023). The existence of sanctions in legal regulations indicates that the perpetrators of criminal acts will be held accountable for their actions. Understanding this concept is important, especially in the criminal justice system which determines the boundaries between legal and illegal behavior.

Elements of Criminal Offenses in Legal Perspective

In criminal law, there are two main perspectives on the elements of a criminal offense: the monistic view and the dualistic view (Atpasila & Aisyah, 2021). The monistic view sees criminal offenses as a unity between unlawful acts and criminal responsibility. Thus, the elements in this view include unlawful acts, the absence of justification, and the existence of fault or negligence of the perpetrator. In addition, the perpetrator must also be considered capable of being held responsible and have no excuse. Meanwhile, the dualistic view separates *criminal acts* from *criminal responsibility*. In this perspective, acts that fulfill the elements of the offense and are against the law are considered criminal offenses, while criminal responsibility is seen as a separate category that requires further analysis related to guilt and the absence of excuses. This dualistic view is relevant in the context of criminalizing children, where the consideration of criminal responsibility is more complex than that of adult offenders.

Theory of Crime: Formal and Material Approaches

The understanding of criminal acts in legal theory is divided into two approaches, namely formal and material. Formal emphasizes the fulfillment of the elements written in the legislation (Putri & Aulia, 2024). On the other hand, material prioritizes the impact or consequences of these actions on society (Suranta, 2023). These two approaches complement each other in law enforcement practice, including in the context of criminal offenses involving

child abusers. In certain cases, a formal focus is needed to ensure consistency with the law, while a material approach is useful to assess the social impact of the conduct.

Regulation and Punishment in the Context of Violence

In Indonesia, various regulations govern criminal offenses, ranging from the Criminal Code (KUHP) to special laws such as Law No. 35 of 2009 on Narcotics and Law No. 19 of 2016 on Electronic Information and Transactions (ITE). Although the Criminal Code is the basic framework of criminal law, social developments demand adjustments through special laws. In the context of child abusers, a different approach is required as children's involvement in crime is often influenced by their environmental and psychological conditions.

Punishment: Objectives and Approaches

Criminalization in Indonesia includes two types, namely principal punishment and additional punishment. Principal punishment consists of death penalty, imprisonment, confinement, and fines, while additional punishment includes revocation of certain rights and deprivation of goods (Rays, Sucipto & Fality, 2023). The theory of punishment itself is divided into three, namely retaliation theory, goal theory, and combined theory (Rivanie, et al, 2022). Retaliation theory argues that punishment is a form of retribution for the crime committed. Immanuel Kant and Hegel are figures who emphasize that justice must be upheld by providing appropriate punishment. In contrast, the goal theory emphasizes preventive and rehabilitative aspects, aiming to prevent the repetition of crimes and improve the behavior of offenders. This approach is particularly relevant in the case of child abusers, where the main focus is not only punishment but also rehabilitation so that the child can reintegrate into society. The combined theory seeks to accommodate both approaches by emphasizing a balance between the deterrent effect and the social benefits of punishment.

Relevance to Child Perpetrators of Violence

In the context of child perpetrators of violence, theories of punishment and criminal offenses have been adjusted to take into account the age and psychological condition of children. Regulations related to children, such as Law No. 11/2012 on the Juvenile Justice System, underline the importance of a rehabilitative approach and the principle of restorative justice. Punishment for children does not solely aim to punish but also to ensure they get the opportunity to change and develop positively.

With the existence of regulations that specifically regulate child offenders, including violence, law enforcement must consider the principle of non-repressive. Punishment for children must reflect a balance between the protection of children's rights and the interests of society. Therefore, a rehabilitative and preventive approach in the punishment of child perpetrators of violence is a top priority, in line with the state's efforts to ensure the growth and development of children in a safe and supportive environment.

Methods Research

The method used in this research is normative research. This approach aims to find legal rules, doctrines, and legal principles that are relevant to answering the legal issues at hand, so as to produce new arguments, theories, and concepts in solving the problems raised (Benuf & Azhar, 2020). The data source used in this research comes from secondary data which includes primary, secondary, and tertiary legal materials. Data collection techniques were conducted through desk research, where libraries and electronic media such as the internet were used to collect, synthesize, interpret, and compare various literature related to the research topic. The analysis of legal materials was conducted using a qualitative method, which includes interpretation based on legal science without using numbers, such as authentic interpretation and grammatical interpretation.

Result and Discussion

Concept of Children in Conflict with the Law (ABH)

Law No. 11/2012 on the Child Criminal Justice System (SPPA) defines children in conflict with the law (ABH) as children in conflict with the law, children who are victims of criminal acts, or witnesses to criminal acts (Article 1 paragraph (2) SPPA). Children in this category are individuals aged 12 to 18 years (Article 1 paragraph (3) SPPA). The difference in legal status between children and adults is reflected in two types of behavior: status offense and juvenile delinquency. Status offense refers to conduct that would not be considered a violation of the law if committed by an adult, such as skipping school or running away from home. In contrast, juvenile delinquency includes acts that are considered criminal offenses, such as theft and violence.

Differences between Juvenile and Adult Criminal Sanctions

The SPPA Law emphasizes that criminal sanctions for children must be corrective and pay attention to the interests of child development. Types of criminal sanctions for children are regulated in Article 71 paragraph (1) SPPA, which includes:

1. Warning punishment
2. Conditional punishment:
 - a. Development outside the institution,
 - b. Community service, or Supervision
 - c. On-the-job training
 - d. Institutionalization
 - e. Imprisonment as the last step

Unlike the Criminal Code, which regulates basic punishment for adults, such as death penalty, imprisonment, confinement, and fines (Article 10 of the Criminal Code), punishment for children is more oriented towards rehabilitation. Imprisonment for children is the last resort, and the death penalty and life imprisonment are not allowed.

Differences between Juvenile and Adult Justice

The juvenile justice process focuses more on protection and recovery, with different arrangements compared to adult justice. Detention during investigation and prosecution is shorter and children must be accompanied by parents, counselors from Bapas, social workers, or legal counsel. The trial for children is also closed and judges do not wear official attributes, unlike adult trials which are open and judges wear togas.

Types of Violence and Crimes of Violence by Children

Violence cases involving children as perpetrators include serious criminal offenses such as:

1. Murder - Set out in Articles 338 to 350 of the Criminal Code, which emphasizes death as a material offense.
2. Serious Maltreatment - Refers to maltreatment that intentionally causes serious injury (Article 351(2) of the KUHP).
3. Theft with Violence - Distinguishes itself from ordinary theft by the element of violence or threat to the person.
4. Rape - Defined in Article 285 of the Criminal Code, which is the act of forcing a woman not his wife to have sexual intercourse with the threat of violence.

Factors Causing Children to Commit Violence

Based on the findings, child abuse is influenced by the following intrinsic and extrinsic factors:

1. Intrinsic Factors

- a. Age: Children are at an unstable stage of mental development, which affects decision-making.
- b. Gender: Physical abuse perpetrators are generally boys, while girls are less likely to be directly involved as primary perpetrators.
2. Extrinsic Factors
 - a. Family - Parents' level of education and upbringing affect children's behavior. Parents who lack moral values can trigger deviant behavior.
 - b. Religion - Lack of religious education in the family has the potential to weaken children's morals, making it easier for them to engage in violence.
 - c. Social Environment - Uncontrolled socialization is a major trigger for children to commit violence.
 - d. Economy - Children from underprivileged families are at a higher risk of being involved in criminal acts due to the inability of parents to fulfill their children's needs.
 - e. Education - Children with low education tend to have limited thinking power and are more vulnerable to being involved in violence.
 - f. Mass Media - Portrayals of violence in the media can influence children to imitate such negative behavior.

Child Protection Arrangements in Criminal Justice in Indonesia

1. Law No. 35/2014 on Child Protection

Law No. 35/2014 is a revision of Law No. 23/2002 and provides a more comprehensive legal basis for child protection. This legal protection includes various efforts to fulfill the rights and provide assistance to witnesses and/or victims, as well as legal protection for victims of crime. This is interpreted as an effort to provide a sense of security to children as part of community protection. Broadly speaking, legal protection for offenders is regulated in various forms, such as the right to know the reasons for arrest, the right to compensation, the right to express opinions, the right not to give a statement, and the right to be treated equally without discrimination. In this context, C.S.T. Kansil in his book mentions a number of rights that offenders should receive, including the right to receive visits from family, doctors, and clergy, and the right to be tried in open court.

As part of a broader legal framework, the 1945 Constitution emphasizes the importance of legal protection for every citizen, which reflects the function of law to achieve justice, expediency, and legal certainty. Legal protection is a description of the right of every individual to be protected, both preventively and repressively, in accordance with applicable provisions. It is important to remember that child protection in Indonesia covers various aspects of life, including economic, social, cultural and legal. Article 28B paragraph (2) of the 1945 Constitution stipulates the right of every child to survival and protection from violence and discrimination. In addition, Article 23 paragraph (1) of Law No. 35/2014 explains that the state and government are responsible for ensuring the protection and welfare of children.

2. Special Protection

Special protection for children in certain situations is regulated in Article 1 paragraph (15) of Law No. 35/2014. This protection is needed to provide security against threats that endanger the life and development of children. Considering that children are God's mandate who have dignity, this law also stipulates that children must have the opportunity to grow and develop optimally, both physically, mentally and socially. In addition, Law No. 35/2014 also emphasizes that the state and government, together with the community and family, have an obligation to provide protection to children. This is in line with the principle that child protection is a shared responsibility, which needs to be supported by a clear legal foundation.

3. Rights of Children in Conflict with the Law

The rights of children in conflict with the law are regulated in Law No. 35/2014, including the right to live, grow, and participate reasonably; protection from persecution; and the right to humane treatment if they are deprived of their liberty. In addition, children who are victims of sexual violence or in conflict with the law are entitled to privacy protection and legal assistance.

4. Law No. 11/2012 on the Juvenile Criminal Justice System

On the other hand, Law No. 11/2012 regulates the juvenile criminal justice system in Indonesia, emphasizing the importance of legal protection for children as individuals with dignity. As a state party to the Convention on the Rights of the Child, Indonesia has an obligation to provide special protection to children in conflict with the law. This law replaces Law Number 3 of 1997 concerning Juvenile Courts, which is no longer considered in accordance with current legal developments and community needs.

Criminal Sanctions Against Child Offenders

Crimes committed by children are their responsibility, but must involve the presence of parents, guardians or caregivers. This responsibility functions in a legal context to ensure that children who commit criminal offenses can be investigated, prosecuted and tried, under certain conditions that differ from the process applied to adults. In this regard, several important principles in the examination of children are set out, namely:

1. Presumption of Innocence: Children are treated as innocent until proven otherwise.
2. Family atmosphere: The legal process is conducted with a family approach.
3. Children as Victims: Recognition that children can also be victims in a legal context.
4. Legal representation: The child must be accompanied by a parent, guardian, or legal counsel.
5. Arrest and Detention: This is the last step, with detention separate from adults.

Criminal responsibility of children is regulated in the Criminal Code (KUHP) and outside the KUHP, specifically in Law No. 11/2012 on the Juvenile Criminal Justice System, which states that criminal sanctions against children consist of:

Criminal Sanctions:

1. Criminal Warning: This is a light punishment that does not limit the freedom of the child.
2. Conditional Punishment: Can be imposed without execution as long as the child meets certain conditions.
3. Non-institutionalization: Includes mentoring programs, therapy, and rehabilitation activities.
4. Community Service: To raise children's awareness of positive activities in the community.
5. Supervision: Conducted by public prosecutors and community supervisors.
6. Job Training: Conducted at training institutions organized by the government or private sector.
7. In-Institute Coaching: Conducted in a training center or institute.
8. Imprisonment: Occurs for serious crimes, with less restrictions on freedom than adults.

Action Sanctions: Action sanctions stipulated in Article 82 of Law No. 11/2012 include:

1. Return to parents/guardians.
2. Handover to the government or certain individuals.
3. Treatment in a mental hospital.
4. Formal education and/or training organized by the government or private sector.
5. Correction and recovery from criminal offenses.

A child in conflict with the law is defined as a child aged 12 to 18, and only children over the age of 14 can be sentenced to a criminal offense. Children's delinquency often leads them to be involved in crimes, which can neglect their rights during the legal process. In the

Criminal Code, Articles 45, 46, and 47 regulate the application of criminal law against juveniles, with the following principles:

1. Humane treatment: The judge has the authority to return the child to the parents or hand over to the government without criminal charges.
2. Education and Rehabilitation: If the child is sentenced, the basic sentence can be reduced by one-third, and the death and life sentences are not applied.
3. Privacy and Child Development: Avoid publicity that may interfere with a child's social development, while ensuring the right to education.

The age limit set in the Criminal Code aims to provide legal certainty, with the provision that children aged 8 to 18 can be tried, and if the offense is committed under that age, the legal process still applies. Law No. 11/2012 states that children in conflict with the law are those aged 12 to 18 years. In terms of maltreatment, Articles 351 to 359 of the Criminal Code regulate various types of maltreatment, including those resulting in death. Crimes of violence that cause death are dealt with more humane legal considerations, different from the process for adults. The application of criminal sanctions against children who commit acts of violence, including death, is regulated by provisions that pay attention to aspects of education and rehabilitation, not just punishment. The legal process against children must consider their mental and emotional development, with the aim of avoiding repetition of crimes in the future.

Conclusion

This research shows that criminal sanctions applied to child perpetrators of violence in Indonesia tend to be rehabilitative and not repressive, in accordance with the principles of child protection enshrined in various laws and regulations, including Law Number 35 of 2014 and the Law on the Child Criminal Justice System (SPPA). Through a rehabilitative approach, the legal system seeks to restore children's behavior and reintegrate them into society. This study also identified that factors that cause child abuse, such as family background, social environment, and lack of education, contribute significantly to violent behavior. Therefore, a comprehensive approach is needed to prevent violence among children and improve the effectiveness of legal protection for children in conflict with the law (ABH).

Suggestion And Recommendation

Based on the findings of this study, it is recommended that authorities, including the government and related institutions, further strengthen efforts to prevent violence among children by involving parents and the community in education and socialization programs. Rehabilitation programs for child abusers should be optimized by promoting a multidisciplinary approach involving psychologists, educators and social workers. Another recommendation is the need for evaluation and revision of existing regulations to ensure that all aspects of child protection and rehabilitation are properly accommodated in the criminal justice system.

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