

The Law Enforcement against Criminal Acts of Violence by Children

Muhammad Zubaidi^{*)}, Sri Kusriyah^{**)} and Peni Rinda Listyowati^{***)}

^{*)} Indonesian Police Officer, E-mail: zubaidineira@gmail.com

^{** & ***)} Faculty of Law, Universitas Islam Sultan Agung, Semarang

Abstract.

The purpose of this study is to determine and analyze law enforcement against perpetrators of criminal acts of violence by children. To find out and analyze legal protection for perpetrators of criminal acts of violence by children. To find out and analyze the barriers to law enforcement against perpetrators of criminal acts of violence by children and efforts to overcome them. The method used by the researcher is a sociological juridical approach to law and the specifications in this study are descriptive. As for the sources and types of secondary data obtained from the literature study. Data analyzed qualitatively. Based on the results of the study that the law enforcement against perpetrators of criminal acts of violence by children have been carried out optimally. Law enforcement against suspects who have committed crimes of child abuse, where the perpetrators have been detained by Police Investigators since the report of abuse was given by the victim to the investigator, and for further investigation the perpetrators are detained by investigators. Legal Protection for Perpetrators of Criminal Acts of Violence by Children is being able to be responsible by serving sentences in accordance with applicable regulations, which in this case are articles 351, 353, 354 and 355 of the Criminal Code. The provisions contained in the article above are articles aimed at anyone who commits a violent crime, more specifically, which results in the death of a person. Obstacle: Victim died, Minor Actors, Suspect Easily to Escape. Efforts to overcome it are dby imposing criminal sanctions. The application of crime to criminals is expected to provide prevention to other people and the general public from committing crimes.

Keywords: Children; Enforcement; Perpetrators; Violence.

1. Introduction

The life of the nation and state, security is a determining factor in the life of the nation and state, the implementation of a sovereign and authoritative government, which is the main condition supporting the realization of a just, prosperous, prosperous and civilized civil society system based on Pancasila and the 1945 Constitution of the Republic of Indonesia. 1945 Indonesia. Domestically, the National Police carry out law enforcement efforts through the process of investigating and investigating criminal acts as regulated in Act No. 2 of 2002 concerning the Indonesian National Police.¹

Children are an asset of the nation, as part of the younger generation, children play a very strategic role as the successor of a nation. However, when a child is in conflict with the law as a perpetrator of a crime, the State is obliged to carry out law enforcement specifically for juvenile offenders through law enforcement agencies in Indonesia. The implementation of law enforcement

¹Ni Made Srinetri, Umar Ma'ruf, 2020, *Progressivity Of Criminal Handling Fraud And Disease By The Directorate Of The General Criminal Reserse Of Central Java Regional Police (POLDA)*, in *Jurnal Daulat Hukum* Volume 3 (1), Published Master Of Law, Faculty of Law Unissula

against children's crimes as perpetrators in the juvenile criminal justice system is divided into two processes, namely in the judicial process and outside the judicial process which in the case of children as perpetrators of crime, it is prioritized to go through a process outside the court called diversion which aims to protect the rights of children which have been stated in the 1945 Constitution of the Republic of Indonesia and the laws relating to children.²

Children who violate the law or commit criminal acts are strongly influenced by several other factors outside of the child such as association, education, playmates and so on, because criminal acts committed by children in general are a process of imitating or being influenced by negative actions from adults or other people surrounding. When the child is suspected of committing a crime, the existing formal justice system ultimately places the child in prisoner status, of course, it brings considerable consequences in terms of child growth and development. The process of punishment given to children through the formal criminal justice system by putting children in prison did not succeed in deterring the child and becoming a better person to support the process of growth and development.³

This is the duty and responsibility of law enforcement officers, namely by upholding the rule of law, because the essence of the rule of law is the principle of law enforcement in all aspects uprightly and proportionally.⁴ Meanwhile, law enforcement that contains the proportional principle is how law enforcement runs in such a way, so that not only the normative rules (aspects of legal certainty) but also the philosophical aspects (aspects and values of justice) are enforced.

The development of law in Indonesia itself is very dynamic and always changes following the development of society, legal developments, especially in the development of criminal (material) and criminal procedural law (formal) outside the territory of the Indonesian Criminal Code (Criminal Law Book) and the Criminal Procedure Code (Criminal Law Book). Indonesian Criminal Procedure Code) which is currently in force. This is because the basic rules of the Criminal Procedure Code (material) of the Criminal Code and the Criminal Procedure Code (formal) from the Criminal Procedure Code which are old legal products that have not been updated or revised, only the revision / review of the articles in the two laws and regulations does not replace / revise the entire Criminal Code or KUHP.⁵

Currently, criminal acts have various motives, such as physical violence or abuse, and there are many other motives for criminal acts. Crime can be said as a form of behavior of someone who violates legal provisions and legal norms that apply in society. Lately, criminal acts can occur against every group, both adults

²Bambang Purnomo, Gunarto, Amin Purnawan, 2018, *Penegakan Hukum Tindak Pidana Anak Sebagai Pelaku Dalam Sistem Peradilan Pidana Anak (Studi Kasus Di Polres Tegal)*, Jurnal Hukum Khaira Ummah Vol. 13. No. 1, Unissula

³Fiska Ananda, 2018, *Penerapan Diversi Sebagai Upaya Perlindungan Hukum Terhadap Anak Pelaku Tindak Pidana*, in Jurnal Daulat Hukum Volume 1 (1), Published Master Of Law, Faculty of Law Unissula

⁴Sidik Sunaryo. (2004). *Kapita Selekta Sistem Peradilan Pidana*. UMM-Press. Malang, p. 217

⁵Moch. Isa Nazarudin, Umar Ma'ruf, 2020, *Comparison Of The Implementation Of Pre-Court Process Before And After The Constitutional Court Decision Number: 21 / PUU-XII / 2014 In The Batang*, in Jurnal Daulat Hukum Volume 3 (1), Published Master Of Law, Faculty of Law Unissula

and children, especially against children, it is very risky because children are the next generation of the nation who need special legal protection that is different from adults, due to physical and mental reasons of immature children and ripe. In the current era of globalization, it is possible that it has even become commonplace for children to commit crimes. Child delinquency is often referred to as juvenile delinquency.⁶ The number of criminal cases involving children, such as cases of fighting and drinking, cases of theft, vandalism, humiliation, violence, beatings is due to the fact that at this time a child is in transition of change, causing uncontrollable emotions.

Acts of violence that occur in the community are increasingly disturbing. In resolving a conflict or problem accompanied by acts of violence. In general, acts of violence can be interpreted as the intentional use of physical force or force, threats or actual violence against oneself, another person, or against a group or community, which results in injury or is likely to injure, kill, harm psychologically, abnormal growth or loss. There are many forms of violence, including physical violence, verbal violence, psychological violence, economic violence, symbolic violence and neglect. Violence can be carried out by individuals or in groups, haphazardly (in conditions of urgency) or organized.⁷

The purpose of this study is to determine and analyze law enforcement against perpetrators of criminal acts of violence by children. To find out and analyze legal protection for perpetrators of criminal acts of violence by children. To find out and analyze the barriers to law enforcement against perpetrators of criminal acts of violence by children and efforts to overcome them.

2. Research Methods

The approach method used in this research is sociological juridical. The specification of this research shows that the research is descriptive. As for the sources and types of secondary data obtained from the literature study. Data analyzed qualitatively.

3. Result and Discussion

3.1. Law Enforcement against Perpetrators of Violence by Children

Law is the result of the attraction of various political forces that are embodied in legal products. Satjipto Raharjo stated that law is an instrumentation of political decisions or desires so that the making of laws and regulations is loaded with certain interests. Thus, the field of law-making becomes a field of

⁶Maidin Gultom, (2014), *Perlindungan Hukum Terhadap Anak dalam Sistem Peradilan Pidana Anak di Indonesia*, Refika Aditama, Bandung, p. 67

⁷Aan Hardiansyah, Akhmad Khisni, Jawade Hafidz, 2018, *Tindak Pidana Kekerasan Dalam Proses Belajar Mengajar Ditinjau Dari Perspektif Hukum Pidana Dan Undang-Undang Nomor 14 Tahun 2005 Tentang Guru Dan Dosen*, in *Jurnal Daulat Hukum* Volume 1 (1), Published Master Of Law, Faculty of Law Unissula

conflict and interests. The law-making body will reflect the configuration of power and interests that exist in society.⁸

Based on the bio-sociological theory, the causes of a crime are environmental factors and individual factors. These two factors are the main causes of criminal acts in society.⁹ Child abuse and neglect of children can have an impact on children's physical and mental health.¹⁰

Based on the formulation of the provisions of Article 351 and Article 170 of the Criminal Code (KUHP) above, it can be seen that the formulation does not provide clarity about what kind of act is meant. The provisions of Article 351 of the Criminal Code (KUHP) above only formulate the qualifications and the penalties that are threatened. Child delinquency in the form of fights by students that often occurs in Indonesia, including in Kudus, is a form of crime because it violates the legal provisions contained in the Criminal Code (KUHP). Various motives for crimes committed by children occur because of certain things, while the quality of each motive is different, a crime that appears on the surface does not always stand alone,

According to Arif Gosita, "A criminal act is an act that is not only defined by criminal law as a crime or a crime. So in a broad sense, this relates to discussing the problem from the point of view of criminal law and criminology. So it is related to the relation of views about crime, delinquency, deviation, changing quality of crime, the process of criminalizing and decriminalizing an action or crime considering the place, time, interests and policies of the ruling class and people's view of life (related to social, economic developments). and culture at a particular time and place).¹¹

Before discussing how to enforce the law against perpetrators who abuse children within the jurisdiction of the Kudus Police, in the author's opinion, it is related to the existence of children as victims of these crimes, the author tries to relate the existence of victimology to the existence of children as victims of criminal acts of abuse.

Presented by Muladi¹² when stating that victims of crime need to be protected because first, society is considered as a form of an institutionalized belief system (system of institutionalized trust). This belief is integrated through norms expressed in institutional structures, such as the police, prosecutors, courts, and so on. Second, there are arguments for social contract and social solidarity because the state can be said to have a monopoly on all social reactions to crime and prohibits private actions. Therefore, if there are victims of crime, the state must pay attention to the needs of victims by improving services and regulating rights.

⁸ Satjipto Raharjo, (2002), *Sosiologi Hukum, Perkembangan, Metode dan Pilihan Masalah*, Muhammadiyah University Press, Surakarta, p. 126.

⁹W.A. Bonger, (2011), *Pengantar Tentang Kriminologi*, Cetakan Kesembilan, Ghalia Indonesia, Jakarta, p. 133

¹⁰I Gusti Ngurah Agung Darmasuarana dan A.A. Ngurah Yusa Darmadi, 2015, *Perlindungan Hukum Terhadap Anak Korban Kekerasan*. Jurnal Kerta Wicara, Vol. 05, No. 02, p. 3

¹¹Arif Gosita, (1985), *Masalah Perlindungan Anak*, Radar Jaya Offset, Jakarta, p. 123

¹²Muladi, (1997), *Perlindungan Korban dalam Sistem Peradilan Pidana; Sebagaimana dimuat dalam Kumpulan Hak Asasi Manusia, Politik, dan Sistem Peradilan Pidana*, Badan Penerbit Universitas Diponegoro, Semarang, p. 172

Third, victim protection which is usually associated with one of the objectives of punishment, namely conflict resolution.

Based on the dominant elements and play an important role in law enforcement above, the writer can state that in law enforcement against perpetrators of criminal acts of violence by children have been carried out optimally. Law enforcement against suspects who have committed crimes of child abuse, where the perpetrators have been detained by Police Investigators since the report of abuse was given by the victim to the investigator, and for further investigation the perpetrators are detained by investigators.

3.2. Legal Protection for Perpetrators of Criminal Acts of Violence by Children in the Legal Territory of the Kudus Police

Legal protection for children who are criminals due to imitating bad behavior from a game in Indonesia does not yet have specific regulations. Although there are quite a number of cases resulting from this, the incident is still considered a new thing, and clear arrangements cannot be made. Because there are still many things that need to be studied in more depth. However, if you want to discuss the issue of legal protection for children, of course the State of Indonesia already has its laws and regulations.

Legal protection for children according to Act No. 35 of 2014 concerning Child Protection is all forms of activities carried out to protect and guarantee children's lives and the rights of children so that they can grow and develop and live optimally in accordance with human dignity and also get protection from all forms of crime and violence as well as discrimination, based on what is stated in article 1 paragraph (2). According to Barda Nawawi Arief, the legal protection contained in the article above is an effort to protect the law against various interests related to children's welfare, freedom and children's human rights that need to be protected and fulfilled (fundamental rights and freedoms of children).¹³

Special protection for children provided by the state as outlined in laws or regulations relating to this matter in conflict with the law in the realm of criminal law is given to children who are victims of criminal acts, witnesses and perpetrators of criminal acts, which means that the three elements get special protection. Regarding special protection for children who are victims of violence, it has been regulated in Article 69 of Act No. 35 of 2014 concerning Child Protection which states that special protection is given to children who are victims of violence, which means that victims of violence, namely children, have special protection in the law.

In addition, the protection of children is also the government's commitment, namely the issuance of Perpu No. 1 of 2016 concerning the second Amendment to Act No. 2 of 2002 concerning Child Protection. In the Perpu, among other things, it is regulated regarding criminal penalties, additional penalties, and other actions for perpetrators. The criminal burden is in the form of an additional one-third of the threat of imprisonment for a minimum of 10 years and a maximum of 20 years.

¹³ Muladi and Barda Nawawi Arief. (2005), *Teori -Teori dan Kebijakan Pidana*, cetakan ketiga, Alumni, Bandung, p. 153

In addition, the threat of life imprisonment and the death penalty is also included in the criminal burden. Meanwhile, for additional alternative punishments that are regulated are the announcement of the identity of the perpetrator, chemical castration, and the installation of electronic detection devices.¹⁴

Children who commit such abuse will be legally processed, but in the case of children who commit crimes, each legal process is different from that of adult criminals. The legal process for perpetrators of criminal acts who are still children must prioritize aspects of protecting the rights of the child. Not being old enough is a reason that eases sentencing because it allows children to improve their behavior and is expected to become good citizens.

Legal Protection for Perpetrators of Criminal Acts of Violence by Children is being able to be responsible by serving sentences in accordance with applicable regulations, which in this case are articles 351, 353, 354 and 355 of the Criminal Code. The provisions contained in the article above are articles that are addressed to anyone who commits a criminal act of violence, more specifically, which results in the death of a person. Law enforcement is influenced by several components. So that in any criminal act, especially offenses of torture or physical violence, to uphold the rule of law is not easy, considering that many institutions are interrelated and both have the authority to carry out their respective responsibilities. Perpetrators of violent crimes that result in the death of a person must be held accountable for their actions before the law and accept all the sanctions given. Legal protection for victims of violence that results in death must be met in accordance with applicable regulations.

3.3. Barriers to Law Enforcement against Perpetrators of Violent Crimes by Children and Efforts to Overcome Them

Criminal law, the term law enforcement is an attempt to carry out the idea of justice, certainty in law becomes a reality. Law enforcement itself is carried out to seek the establishment of real legal norms as legal guidelines in people's lives. In law enforcement requires a process that involves many things.¹⁵ Concrete law enforcement is a process of applying positive law that must be obeyed. In essence, this law enforcement has the meaning to always instill or prove that all ideas or values that contain justice and truth.

Barriers to law enforcement against perpetrators of criminal acts of violence by children and efforts to overcome them. Obstacle: Victim died, Minor Actors, Suspect Easily to Escape. Efforts to overcome it are imposing criminal sanctions. The application of crime to criminals is expected to provide prevention to other people and the general public from committing crimes. Through the imposition of the right criminal, it is hoped that the judge's decision in addition to trying the perpetrators, is also an effort to deter the perpetrators and is also an effort to prevent other parties from participating in criminal acts.¹⁶

¹⁴Sri Endah Wahyuningsih, 2016, *Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Kesusilaan Dalam Hukum Pidana Positif Saat Ini*, Jurnal Pembaharuan Hukum Volume III No. 2

¹⁵Dellyana Shanty. (1998). *Konsep Penegakan Hukum*. Yogyakarta: Libert, p. 37.

¹⁶Achmad Sulchan, 2018, *Criminal Law Litigation Skills*, Unissula press, Semarang, page 18

4. Conclusion

Law enforcement against perpetrators of criminal acts of violence by children have been carried out optimally. Law enforcement against suspects who have committed crimes of child abuse, where the perpetrators have been detained by Police Investigators since the report of abuse was given by the victim to the investigator, and for further investigation the perpetrators are detained by investigators. Legal protection for perpetrators of crimes of violence by children is being able to be responsible by serving sentences in accordance with applicable regulations, which in this case are articles 351, 353, 354 and 355 of the Criminal Code. The provisions contained in the article above are articles aimed at anyone who commits a violent crime, more specifically, which results in the death of a person. Obstacle: Victim died, Minor Actors, Suspect Easily to Escape. Efforts to overcome it are imposing criminal sanctions. The application of crime to criminals is expected to provide prevention to other people and the general public from committing crimes.

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