

The Effectiveness of Punishment for Children Perpetrating the Crime of Aggravated Theft from the Perspective of the Juvenile Criminal Justice System

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Abstract. *This research The crime of aggravated theft is a form of crime that has elements of ordinary theft that are aggravated by certain circumstances or methods as regulated in Article 363 of the Criminal Code. However, this crime still occurs frequently and tends to be repeated, which indicates weak prevention and mitigation efforts. This research aims to empirically determine (Empirical Legal Research) the application of criminal sanctions against children as perpetrators of the crime of aggravated theft in the study of Decision No. 71 / Pid.Sus-Anak / 2025PN.Batam. This research uses a statutory approach as mandated in Article 28B paragraph (2) of the 1945 Constitution with data collection techniques used being literature studies or document studies and interviews. This approach is combined with a review of the principles of child protection and the concept of restorative justice which is the main basis for handling children in conflict with the law (the best interest of the child). Thus, this research is not only based on written norms, but also on humanitarian values and the social objectives of criminal punishment. The results of the study indicate that the criminalization of juvenile perpetrators of aggravated theft in practice is still ineffective, even though it is normatively regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System which prioritizes a restorative justice and diversion approach. In its implementation, criminalization still tends to be repressive and prioritizes punishment over guidance and rehabilitation. This is due to the nature of the crime of aggravated theft as regulated in the Criminal Code which has a fairly severe criminal threat, thus limiting the application of diversion.*

Keywords: *Aggravated Theft; Effectiveness of Punishment; Juvenile Criminal Justice System; Restorative Justice.*

1. Introduction

In building a family life, children are a trust and gift from God Almighty, possessing the dignity and worth of a full human being, and inherent human rights from birth. The state, parents, families, and communities are obligated to ensure the protection and fulfillment of children's rights so they can grow and develop optimally, physically, mentally, spiritually, and socially.¹ From the perspective of a state based on the rule of law, children are not only positioned as objects of protection, but also as legal subjects who have rights and obligations according to their age and maturity. Article 28B paragraph (2) of the Constitution of the Republic of Indonesia explicitly regulates child protection:

*"Every child has the right to survive, grow and develop, and has the right to protection from violence and discrimination."*²

Based on the aforementioned article, it should serve as a fundamental foundation for guaranteeing children's rights through a legal framework that can serve as a system for the state and individuals to protect them from every aspect of their lives. Children are not only born as individuals who exercise their natural human nature, but also consider their constitutional rights guaranteed by the state through the most fundamental laws, so that children can develop and have the future they desire and hope for. The state's duty is to ensure that these children can freely receive and exercise their constitutional rights, which are binding from birth.

Given the dynamics of social life, it's undeniable that children can also be involved in illegal activities, including criminal acts. Children's involvement in criminal acts is often influenced by various factors, such as family environment, economic conditions, social interactions, and lack of supervision and education.³ One of the crimes that often involves children is the crime of theft, including aggravated theft as regulated in Article 477 of Law No. 01 of 2023 concerning the Criminal Code (KUHP).

Children are a vital part of the younger generation, possessing immense potential and expected to achieve and realize the ideals of the Indonesian nation. This potential is expected to lead the Indonesian nation towards greater progress and prosperity. As the successors to the nation's struggle, children play a crucial role in carrying on the nation's ideals and are essential human resources for future national development. Therefore, children need proper guidance and adequate protection to ensure their growth and development. Many complex

¹Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

²Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia

³Barda Nawawi Arief, Anthology of Criminal Law Policy, Jakarta: Kencana, 2016, p. 109.

issues arise during a child's development, one of which is juvenile delinquency, which can lead to criminal activity.⁴

According to Prasetyo, crimes committed by children are caused by various factors, including the negative impact of rapid development, the influence of globalization in the fields of communication and information, advances in science and technology, and changes in lifestyle experienced by some parents. Furthermore, a lack of affection, attention, guidance, and coaching in developing attitudes, behavior, and adaptability also plays a role.⁵

The Republic of Indonesia is a state of law, which means that the Republic of Indonesia is based on law, not just on power. This indicates that all aspects of national and state life must be based on and based on applicable law without regard to status, position, race, ethnicity and religion (equality before the law), as regulated in Article 1 paragraph (3) of the 1945 Constitution (UUD 1945).

*"Indonesia is a country based on law."*⁶

The existence of Article 1 paragraph 3 of the Constitution emphasizes to all people that Indonesia is a country of law, so that people are obliged to obey the applicable rules. All aspects of life in society, state and government must always be based on law. which contains the matter of the Indonesian state as a state of law which contains the understanding that all orders in the life of the nation, society, and state are based on applicable law, which includes the supremacy of law, equality before the law, protection of human rights, and limitations of power. So even if the criminal act is committed by a child, the child is not free from legal consequences in accordance with the rules applicable in the Republic of Indonesia.

Considering the above, theft is a crime that has experienced an increase in both quality and quantity, and is the most common type of crime in society. Juvenile delinquency that leads to criminal acts, such as theft, can cause unrest in the community by disrupting neighborhood security. Based on data collected from the Bareleng Police through media publications, there were 157 aggravated theft cases reported, with 118 resolved throughout 2025.⁷not the highest of all crimes, but this shows that aggravated theft still frequently occurs in the Riau Islands region, especially in Batam City.

⁴Budhi Wisaksono et al., "Handling of Children Perpetrating the Crime of Motor Vehicle Theft with Violence Based on Law No. 3 of 1997 Concerning Juvenile Courts", Diponegoro Law Review, Volume 3 Number 2, 2014, p. 3.

⁵Prasetyo, T. (2015). "Implementation of Diversion for Child Criminal Offenses in the Juvenile Criminal Justice System", Legal Reflections: Journal of Legal Studies, 9(1), 1-14, p. 2.

⁶Article 1 Paragraph (3) of the 1945 Constitution

⁷ <https://metropolis.batampos.co.id/kasus-kriminal-di-batam-selama-2025-didominasi-kasus-pengaayaan-dan-pengeroyokan/> Accessed on Saturday, January 31, 2026, at 15:35 WIB.

Aggravated theft is a crime that has a higher level of seriousness than ordinary theft because it is carried out under certain aggravating circumstances, such as being carried out by two or more people, being carried out at night, or being carried out by means of damage, climbing, or using certain tools.⁸ When this crime is committed by a child, a complex legal issue arises: how the state enforces criminal law without ignoring the principle of protection and the best interests of the child. Aggravated theft is theft accompanied by one of the following circumstances: the theft is committed at night, by two or more people, and is carried out in a destructive manner, resulting in significant harm.

In Islamic law, theft is prohibited by the Quran and Hadith. Islamic criminal law defines theft as the unlawful taking of another person's property without the owner's permission. The legal basis for theft in Islamic criminal law is stipulated in Surah Al Maidah, verse 38 of the Quran:

*"As for the man or woman who steals, cut off their hands as a recompense for what they have done, as a punishment from Allah. And Allah is Mighty, Wise. But whoever repents after committing a crime and amends himself, then Allah will accept his repentance. Indeed, Allah is Oft-Forgiving, Most Merciful."*⁹

In response to the need to protect children in conflict with the law, Indonesia enacted Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). This law marked a paradigm shift in the handling of children in conflict with the law, from a retributive approach to a rehabilitative and restorative approach.¹⁰ The Juvenile Criminal Justice System (SPPA) Law emphasizes that criminalizing children should be considered a last resort (*ultimum remedium*) and prioritizes diversion and restorative justice mechanisms whenever possible. The primary goal of the Juvenile Criminal Justice System is not retribution, but rather the development and rehabilitation of children so they can function socially within society. Therefore, every stage of the juvenile criminal justice process, from investigation and prosecution to trial, must consider the best interests of the child and uphold the principles of non-discrimination and protection from negative stigma.

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) is the legal basis that regulates the protection of children in conflict with the law. The provisions of Article 81 paragraph (2) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) stipulate that the maximum prison sentence that can be imposed on children is 1/2 (one half) of the maximum prison sentence for adults.¹¹ According to Pangemanan, the juvenile criminal justice system is used to combat juvenile delinquency and provide protection for

⁸ Moeljatno, Principles of Criminal Law, Jakarta: Rineka Cipta, 2015, p. 168

⁹ Al-Quran, QS Al-Maidah (5): 38.

¹⁰ Marlina, Juvenile Criminal Justice in Indonesia, Bandung: Refika Aditama, 2012, p. 87.

¹¹ Law Number 11 of 2012 concerning the Juvenile Criminal Justice System

children involved in legal violations, including those who are the perpetrators. However, children who commit crimes are still required to be held accountable for their actions in accordance with applicable regulations.¹² However, in law enforcement practice, court decisions still impose prison sentences on children who commit aggravated theft. This situation has given rise to debate about the effectiveness of sentencing children, particularly when such imprisonment has the potential to harm the child's psychological and social development.¹³ Criminalization that ignores the characteristics of children is feared to lead to labeling effects and increase the risk of recidivism. Theoretically, criminalization has several goals: retribution, deterrence, rehabilitation, and social defense.¹⁴ In the context of the juvenile criminal justice system, rehabilitation and development should be the primary focus. Effective punishment for children is not measured by the severity of the sanctions imposed, but by the extent to which those sanctions improve the child's behavior and prevent future reoffending.

The issue of the effectiveness of sentencing for children is also closely related to the conditions of special child-centered institutions. Limited facilities, a lack of professional counselors, and a lack of sustainable rehabilitation programs often hinder the achievement of ideal sentencing goals.¹⁵ In such situations, imprisonment has the potential to become a criminogenic factor that actually encourages children to fall further into the world of crime. For example, the case in the Batam District Court Decision Number 71/Pid.Sus-Anak/2025/PN.Batam is of concern in this regard, because it is related to a case of aggravated theft committed by a child. This case began on December 3, 2025, with a child named Azman bin Ibrahim being arrested and detained under state house arrest on suspicion of aggravated theft of a Honda Beat motorcycle from the motorcycle's owner named Ali M. Sobur. The court that tried in this case was the Batam District Court which charged and sentenced or tried the child of Azman bin Ibrahim who was legally and convincingly proven guilty of committing the crime of "theft under aggravated circumstances" as charged in a single indictment, by imposing a prison sentence of one (1) year and four (4) months minus the period of detention that the child has served and also charged the child to pay court costs of Rp. 5,000.00 (five thousand rupiah). In this case, it provides an illustration of how the juvenile criminal justice system applies the law to child perpetrators who commit the crime of aggravated theft. In this case, it is important to analyze whether the legal process taken is in accordance with applicable legal provisions, as well as how to apply sanctions to children who

¹²Pangemanan, JB (2015). *Criminal Responsibility of Children in the Justice System*

¹³Paulus Hadisuprpto, *Child Delinquency and Criminalization*, Malang: Brawijaya University Press, 2010, p. 142.

¹⁴Andi Hamzah, *Theory and System of Criminal Justice*, Jakarta: Raja Grafindo Persada, 2014, p. 23.

¹⁵Setya Wahyudi, *Implementation of the Juvenile Criminal Justice System*, Yogyakarta: Genta

commit serious crimes such as aggravated theft. Batam District Court Decision Number 71 / Pid.Sus-Anak / 2025 / PN.Batam is a concrete example of the application of criminal penalties to children who commit the crime of aggravated theft. This decision reflects how the judge balanced the application of the provisions of the Criminal Code (KUHP) with the principles of the Juvenile Criminal Justice System (SPPA) Law. Analysis of this decision is crucial for assessing the extent to which the judge's considerations reflect the best interests of the child and the objectives of the juvenile criminal justice system.

For the sake of studying criminal cases involving children requires a different approach from criminal law towards adults. Batam District Court Decision Number 71/Pid.Sus-Anak/2025/PN.Batam will be analyzed in this study, through this study, it is hoped that a deeper understanding can be found regarding the criminal responsibility of children in cases of aggravated theft, as well as how legal protection for children in conflict with the law can be improved and this study aims to provide an overview of the need for a more humane and rehabilitative approach in handling criminal cases involving children, so that the children concerned do not only receive punishment, but also the opportunity to improve themselves and return to society as better individuals.

From the perspective of the juvenile criminal justice system, the effectiveness of punishment must be viewed holistically, not only from the perspective of legal certainty and justice for victims, but also from the perspective of protection, development, and the future of children as perpetrators. An approach that places too much emphasis on repressive aspects has the potential to conflict with the spirit of the Juvenile Criminal Justice System Law (SPPA) and the principles of child protection as recognized in national and international law.¹⁶

Based on these circumstances, this research is meaningful in analyzing the legal implementation of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System in the sentencing of juvenile perpetrators of aggravated theft. This analysis is expected to identify the effectiveness of law enforcement, the obstacles encountered, and provide suggestions for future revisions to policies and law enforcement applications. Based on this normative explanation, it can be confirmed that the applicable law provides a sufficiently robust legal framework to guarantee legal certainty and justice for victims. However, challenges remain in terms of the effectiveness of sanctions, legal certainty, and their effectiveness. Therefore, a normative analysis of the implementation of this law is meaningful, to determine the extent to which the regulation is able to address the need for effective sentencing. This research aims to identify and analyze the construction of law enforcement regulations and the effectiveness of sentencing from the perspective of the Juvenile Criminal Justice System.

¹⁶United Nations Convention on the Rights of the Child (CRC), 1989, Article 3.

2. Research Methods

The approach used in this research is a combination of empirical research and a socio-legal approach. More specifically, the research mechanism utilizes methods such as a statute approach and a conceptual approach, which examines legal doctrines, academic perspectives, and legal theories relevant to the issue of law enforcement in the juvenile justice system.¹⁷ Case approach, namely analyzing relevant court decisions, for example the Batam District Court Decision Decision No. 71/Pid.Sus-Anak/2025/PN.Batam. Data collection methods relevant to this research, used several data collection techniques, namely literature studies, interviews, and observation or documentation.¹⁸

Analysis The data obtained was analyzed qualitatively-descriptively, namely by systematically and factually describing the findings in the field and then analyzing them based on relevant legal theories and applicable laws and regulations.¹⁹

3. Results and Discussion

3.1. Criminal Liability for Aggravated Theft with Child Perpetrators According to Law Number 11 of 2012

Criminal liability is a fundamental concept in criminal law that determines whether a person can be held responsible for an act they have committed. Doctrinally, criminal liability is related to the principle *geen straf zonder schuld* (*no punishment without fault*), which emphasizes that a person can only be punished if there is an element of fault in their actions. Criminal accountability for children cannot be separated from the paradigm of child protection as part of human rights. In the Indonesian legal system, the approach to children in conflict with the law has shifted significantly from a retributive approach to a restorative approach. This is emphasized in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which positions children not merely as perpetrators of crimes, but as subjects requiring protection and guidance.

The crime of theft is regulated in Article 362 of the Criminal Code which explains that "Anyone who takes all or part of another person's property with the intention of possessing it unlawfully, is threatened with theft with a maximum prison sentence of five years or a maximum fine of sixty rupiah."²⁰ Article 363 of the Criminal Code explains that Article 363 paragraph (1) 4 of the Criminal Code regulates aggravated theft committed by two or more people. Law Number 11 of 2012 concerning the juvenile criminal justice system explains that children in

¹⁷Soerjono Soekanto & Sri Mamudji, Normative Legal Research: A Brief Review, Rajawali Pers, Jakarta, 2015, p. 23.

¹⁸Ronny Hanitijo Soemitro, Legal Research Methodology, Second Edition, Jakarta: Ghalia Indonesia, 2015, p. 24.

¹⁹Sugiyono, Quantitative, Qualitative and R&D Research Methods, Alfabeta, Bandung, 2019, p. 52

²⁰Criminal Code Article 362

conflict with the law, hereinafter referred to as children, are children who are 12 (twelve) years old, but not yet 18 (eighteen) years old who are suspected of committing a crime. Children have rights that must be fulfilled, including: the right to develop, the right to protection, the right to receive education and teaching, and the right to receive legal protection. Legal protection for children in the criminal justice system is regulated in Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA).

According to Nevey Varida Ariani, the Juvenile Criminal Justice System puts forward general principles of child protection, including non-discrimination, the best interests of the child, survival and growth and respect for child participation.²¹ Philosophically, this concept is rooted in the principle that children do not yet possess full psychological and social maturity, and therefore cannot be treated the same as adults in terms of criminal responsibility. Therefore, sentencing children must take into account their mental development, social conditions, and potential for rehabilitation.

In criminal law doctrine, criminal responsibility requires the existence of fault (*schuld*). However, in the context of children, the concept of fault has been adjusted due to the limited ability of children to understand the consequences of their actions. Criminal responsibility is one of the main pillars of criminal law, which functions to determine whether a person can be punished for an act they have committed. Within the framework of modern criminal law, criminal responsibility is not only seen in terms of the external act (*actus reus*), but also from the inner aspect (*mens rea*), which reflects the existence of fault on the part of the perpetrator. Conceptually, criminal responsibility is closely related to the fundamental principle of criminal law, namely the principle of "*geen straf zonder schuld*," which means there is no crime without fault. This principle emphasizes that a person cannot be punished solely for having committed an act prohibited by law, but must also be proven to have inherent fault.

In the context of aggravated theft or qualified theft is regulated in Articles 363 and 365 of the Criminal Code. Theft under aggravated circumstances can be interpreted as special theft, namely as a theft in certain ways so that it is more serious, then proof of the elements of the crime of aggravated theft must begin with proving the theft in its basic form. The crime of theft with aggravating elements or which in doctrine is also often called *gequalificeerde distal* or theft with qualifications by the legislators has been regulated in Article 363 of the Criminal Code, the original formulation of which is as follows:

a. Article 363

1) Shall be punished with imprisonment for a maximum of seven years:

²¹Ariani, NV (2014). Implementation of Law Number 11 of 2012 concerning the juvenile criminal justice system in an effort to protect children's interests. *Journal of Legal Media*, 21(1), 16, p. 3.

1. theft of livestock, 2. theft during a fire, eruption, flood, earthquake or seaquake, volcanic eruption, shipwreck, stranded ship, train accident, riot, rebellion or danger of war, 3. theft at night in a house or enclosed yard where there is a house, carried out by a person whose presence there is unknown or not wanted by the rightful party, 4. theft carried out by two or more people together, 5. theft in which to enter the place of committing the crime or to get the goods taken, is carried out by breaking, damaging, climbing, or using a fake key or fake official clothing (uniform).

2) "If the thief as defined in number 3 is accompanied by one of the conditions as intended in number 4 and number 5, a prison sentence of nine years is imposed."

b. Aggravating elements

1) Livestock Theft (Article 363 paragraph (1) point 1 of the Criminal Code)

In Article 353 paragraph (1) 1 of the Criminal Code, the aggravating element is the element of livestock. The interpretation of the meaning of livestock has been provided by law, namely Article 101 of the Criminal Code. Thus, to see the meaning of livestock, an authentic interpretation is used, namely the interpretation provided by the law itself.

According to Article 101 of the Criminal Code, livestock is defined as ruminants and pigs. Ruminants include buffalo, cows, goats, and so on. Hoofed animals include horses, donkeys, and so on.

2) Theft during a fire, eruption, flood, earthquake or seaquake, volcanic eruption, shipwreck, stranded ship, train accident, riot, rebellion or danger of war (Article 363 paragraph (1) 2 of the Criminal Code).

3) Theft at night in a house or enclosed yard where there is a house, carried out by someone who is there without the knowledge or will of the person entitled to it (Article 363 paragraph (1) 3 of the Criminal Code).

In the application of just criminal law, Indonesia recognizes the Pancasila theory of justice. Pancasila justice is a concept of justice derived from the fundamental values contained in Pancasila, the foundation of the state and the ideology of the Indonesian nation. Justice from a Pancasila perspective is not only understood as formal legal justice, but also reflects a balance between the interests of individuals, society, and the state, based on the values of humanity, morality, and the common good. Therefore, Pancasila justice emphasizes the harmony between rights and obligations and positions humans as both individual and social beings who must be protected by law.

Yudi Latif's thoughts on Pancasila position it as a system of values that serves not only as the foundation of the state but also as a moral, philosophical, and

cultural foundation for national and state life. In his view, Pancasila must be understood substantively as a living ideology capable of responding to the challenges of the times and serving as a guideline for the administration of the state and the social life of Indonesian society.²²

According to Yudi Latif, Pancasila is the crystallization of values that exist within Indonesian society, originating from cultural traditions, religion, and the nation's historical experiences. Therefore, Pancasila was not born suddenly, but rather the result of the deep contemplation of the nation's founders who sought to formulate a state foundation capable of uniting the diversity of Indonesian society. In this regard, Pancasila serves as a meeting point for various social, political, and cultural interests in Indonesia, thereby becoming a glue for national unity. In his monumental work *Negara Paripurna (Plenary State)*, Yudi Latif explains that Pancasila is the foundation for the formation of an ideal state, namely a state capable of guaranteeing justice, prosperity, and national unity.⁹³ The plenary state in question is a state capable of balancing political power, moral values, and the interests of society as a whole. Thus, Pancasila functions not only as a formal legal basis, but also as an ethical orientation and direction for national development. From a legal perspective, Yudi Latif's thinking emphasizes that Pancasila must be a source of values in the formation and enforcement of law in Indonesia.

Based on this thinking, it can be concluded that Yudi Latif's Pancasila theory positions Pancasila as a dynamic and contextual ideology that integrates spiritual values, humanity, democracy, and social justice. Pancasila is not merely a state symbol, but a moral and philosophical guideline that must be implemented in all aspects of national and state life.

3.2. Analysis of Responsibility in the Case of Theft with Aggravated Court Decision Number 71/Pid.Sus-Anak/2025/PN Batam

In this case, a child was charged with aggravated theft named Azman bin Ibrahim, aged 17 years. The act was carried out in a certain way which met the elements of Article 363 of the Criminal Code paragraph (1) 4e and 5e. This case began on December 3 2025 with a child named Azman bin Ibrahim who was arrested and detained under state house arrest on suspicion of aggravated theft of a Honda Beat motorbike by the owner of the motorbike named Ali M. Sobur. The court that adjudicated in this case, the Batam District Court, charged and sentenced or tried the child Azman bin Ibrahim who was legally and convincingly proven guilty of committing the crime of "theft under aggravating circumstances" as charged in the single indictment, by imposing a prison sentence of one (1) year and four (4) months minus the period of detention the

²²Yudi Latif, *The Perfect State: Historicity, Rationality, and Actuality of Pancasila*, Jakarta: Gramedia Pustaka Utama, 2011, pp. 45–47.

child had already served and also charging the child to pay court costs in the amount of Rp. 5000.00 (five thousand rupiah). This case illustrates how the juvenile justice system applies the law to juvenile offenders who commit aggravated theft. In this context, it is important to analyze whether the legal process complies with applicable law and how sanctions are applied to juveniles who commit serious crimes such as aggravated theft.

Judges must have a broad understanding of law when examining and deciding cases. A judge's work, while being both practical and scientific, requires them to continually delve into legal knowledge to solidify their legal reasoning as the basis for their decisions.²³

In the case Number 71/Pid.Sus-Anak/2025/PN Batam, the judge tried Anak Azman bin Ibrahim stating legally and convincingly guilty of committing the crime of "theft under aggravating circumstances" as in the single indictment; Sentencing the child therefore to a prison sentence of one year and four months; Determining the period of arrest and detention that the child has served is deducted entirely from the sentence imposed; Determining the child to remain detained; Determining the evidence; And burdening the child to pay court costs of Rp. 5,000.00 (five thousand rupiah).

When imposing criminal sanctions, judges must consider the purpose of the punishment and relate it to the age of the perpetrator, who is still categorized as a child. Punishment is not merely retribution, but must be proportional, that is, it must contain the principles and purposes of punishment, including:

- a. Correction (Correction);
- b. Education;
- c. Prevention (Preventive);
- d. eradication (repressive)

In the case above and based on the facts at the trial, it has been proven that Azman bin Ibrahim's son legally and convincingly committed the crime of theft under aggravating circumstances, therefore the author assesses that the decision handed down is sufficient to be the best decision for the child and is in accordance with the applicable law, so that the child is given a deterrent effect and on the other hand considers his rights as a child, so that the decision does not burden the child too much, but rather educates the roots of improvement in the child.

²³Marwan Mas, Strengthening the Arguments of Trial Facts and Legal Theory in Judges' Decisions, *Jurnal Judisial* Vol. 5 No. 3 December 2012, pp. 283 – 297.

3.3. The Effectiveness of Punishment for Children Perpetrating the Crime of Aggravated Theft from the Perspective of the Juvenile Criminal Justice System

Theory of Punishment Effectiveness

The effectiveness of criminal punishment for children as perpetrators of aggravated theft is basically closely related to the legal principles of child protection, especially that every policy and legal action must prioritize the best interests of children. (*the best interests of the child*). The child protection perspective views a child caught in a theft crime as not merely a perpetrator of a legal violation, but rather a victim in need of care, support, and rehabilitation. Therefore, the effectiveness of punishment can be measured by the extent to which the process is able to restore the child's physical, mental, and social condition, as well as prevent the child from re-involvement in theft cases under aggravating circumstances. In his theory of legal effectiveness, Lawrence M. Friedman previously argued that the legal system consists of three main components, namely:

- a. Substance (legal content), namely the applicable rules;
- b. Structure (legal structure), namely law enforcement institutions;
- c. Legal culture, namely the attitudes and behavior of society towards the law.²⁴

The effectiveness of the law is determined by the extent to which these three components function harmoniously. In the context of this research, Law No. 11 of 2012 substantially regulates the judicial mechanism for children involved in legal matters, ensuring that children's rights are fulfilled even if they are guilty of their actions. The effectiveness of sentencing children who commit crimes, particularly aggravated theft, is a crucial issue in the Indonesian criminal justice system. This is due to a paradigm shift from a repressive approach to a rehabilitative approach that positions children as subjects who must be protected.

Factors Affecting the Effectiveness of Criminal Punishment

The effectiveness of punishment from the perspective of the juvenile criminal justice system can essentially be measured by the extent to which its objectives are achieved. These objectives are not limited to providing a deterrent effect but also encompass rehabilitation, guidance, and social reintegration of children into society. In this regard, effective punishment is punishment that can change children's behavior for the better, prevent recurrence of criminal acts, and restore social relationships between perpetrators, victims, and the community. However, in practice, these objectives have not been fully achieved, particularly

²⁴Lawrence M. Friedman, *The Legal System: A Social Science Perspective*, Russell Sage Foundation, New York, 1975, p. 15–16

in cases of aggravated theft, which tend to be handled through a formal criminal approach.

One important indicator in assessing the effectiveness of juvenile punishment is the extent to which restorative justice principles are applied in the judicial process. Restorative justice emphasizes restoring the disturbed state caused by the crime, by involving the perpetrator, victim, and community in the case resolution process. Furthermore, the effectiveness of juvenile punishment is also influenced by the performance and perspective of law enforcement officials. In many cases, law enforcement officials still tend to use a retributive approach that emphasizes punishment, despite normative regulations regarding the importance of rehabilitative and restorative approaches. This indicates a gap between legal norms and implementation in the field. A lack of understanding and specific training regarding the juvenile criminal justice system is one factor contributing to the suboptimal implementation of these principles.

On the other hand, limited facilities and infrastructure, such as special child development institutions (LPKA) and professional staff in psychology and social sciences, also pose obstacles to effective criminalization. Judging from the trend of theft cases under Articles 362 and 363 in the Riau Islands, the number of thefts decreased from 2023 to 2025, but not significantly, indicating a need for optimization of effectiveness.

Thus, the effectiveness of punishment for juveniles who commit aggravated theft is the result of the interaction of various interrelated factors, including normative, structural, and cultural ones. The suboptimal operation of any one of these factors can impact the entire system, thus preventing the goal of punishment from being fully achieved.

3.4. Obstacles Faced by Law Enforcement and Solutions in Law Enforcement Against Perpetrators of Aggravated Theft with Child Perpetrators

The Conflict Between Repressive and Restorative Approaches

In cases of aggravated theft as stipulated in the Criminal Code¹⁰⁴, the penalties are considered severe, so law enforcement often prefers a formal criminalization approach. This contradicts the spirit of the juvenile justice system, which prioritizes diversion and restorative justice. This situation creates a dilemma for law enforcement, as they must firmly enforce the law while protecting the best interests of the child. As a result, case handling is often inconsistent, potentially reducing the effectiveness of criminalization.

Limited Understanding and Capacity of Law Enforcement Officials in Handling Child Cases

Not all officials have specialized competence in juvenile justice, either in terms of child psychology or restorative approaches. This often leads to the handling of juvenile cases being treated the same as for adults, neglecting the protection and development aspects.

Limited Facilities and Infrastructure

Special Child Development Institutions (LPKA), Correctional Centers (Bapas), and other supporting facilities remain limited in both quantity and quality. This situation hinders the implementation of child development and rehabilitation programs.

Evidence and Case Handling

In cases of aggravated theft, there is often the involvement of more than one perpetrator, thus complicating the investigation and prosecution process.

Effectiveness Enhancement Solutions

In accordance with the principles and objectives of criminal law, efforts to impose criminal sanctions on child repeat offenders must be carried out in a balanced manner, including preventive measures, punitive measures, and curative measures. Preventive measures are measures taken to prevent children from repeating criminal acts.

Therefore, the solutions offered must comprehensively address the various obstacles faced by law enforcement officials, stemming from regulatory, institutional, human resource, and social factors. A partial approach will not be sufficient to address the complexity of the problems, requiring an integrated and systematic strategy.

a. Capacity Building of Law Enforcement Officers

Facing these various obstacles, comprehensive and integrated solutions are needed. One key solution is to increase the capacity of law enforcement officers through specialized education and training on the juvenile criminal justice system. This training should cover legal aspects, child psychology, and restorative justice techniques. This way, law enforcement officers can handle juvenile cases more professionally and in accordance with child protection principles.²⁵

In an interview with AKP ROBINSAR TAMPUBOLON, SH, PS. HEAD OF UNIT 1, SUBDIT 3, DIRECTORATE OF CRIMINAL RESEARCH, POLDA KEPRI

²⁵Marlina, *Juvenile Criminal Justice in Indonesia*, Bandung: Refika Aditama, 2012.

There are several concrete actions from law enforcement, in this case the police, to reduce the number of crimes of theft by increasing the effectiveness of criminal punishment, including the following:

- 1) Conduct patrols in areas prone to theft.²⁶
- 2) Routine patrols and night patrols in areas where theft frequently occurs (residential areas, shophouses, warehouses, parking lots).
- 3) Dialogic patrols, where police interact with residents and local security officers, aim to be preventative by increasing a sense of security and reducing opportunities for perpetrators to take action.
- 4) Special police operations
- 5) Firm action according to law
- 6) Collaboration with the Community
- 7) Preemptive approach (early prevention)

b. Strengthening Facilities and Infrastructure

Specifically, child development institutions and other supporting facilities. The government needs to increase the number and quality of LPKA and provide adequate professional staff.

c. Increasing Public Awareness

Efforts need to be made to raise public awareness about the importance of a restorative approach in handling juvenile cases. Public outreach and education can help shift the paradigm from a punitive approach to a developmental one. With community support, children's social reintegration can be more effective, thereby reducing the risk of recidivism.

d. Optimizing the Implementation of Diversion and Restorative Justice

Law enforcement officials must be more proactive in encouraging the resolution of cases through this mechanism, especially in cases where it is still possible to resolve them outside the courts.

4. Conclusion

This study confirms that law enforcement in Indonesia has a fairly progressive normative basis through Law Number 11 of 2012 concerning the Juvenile

²⁶Results of the interview with AKP ROBINSAR TAMPUBOLON, SH, PS. HEAD OF UNIT 1 SUBDIT 3 DIRECTORATE OF CRIMINAL RESEARCH OF THE RIAU REGIONAL POLICE on Tuesday, March 10, 2026 at 09:00 WIB

Criminal Justice System which emphasizes a restorative justice and diversion approach. However, in its implementation, the effectiveness of criminal punishment is still not optimal, especially in cases of aggravated theft which tend to be processed through formal justice mechanisms due to the nature of the offense which is considered serious and the relatively high criminal threat as regulated in the Criminal Code. The basis for the Judge's consideration in sentencing the perpetrator of the crime of aggravated theft in the Decision Study No. 71/Pid.Sus-Anak/2025/PN.Batam which is based on juridical grounds, namely that the perpetrator's actions are legally proven to have violated Article 363 Paragraph (1) 3rd and 5th of the Criminal Code. The effectiveness of punishment for juveniles who commit aggravated theft is influenced by various interrelated factors, including legal substance, law enforcement officials, facilities and infrastructure, the community, and legal culture. Although adequate regulations exist, in practice, there is still a gap between norms and implementation. To increase the effectiveness of punishment for children who commit aggravated theft, comprehensive and integrated efforts are needed, including strengthening the implementation of restorative justice and diversion, increasing the capacity of law enforcement officers, providing adequate facilities and infrastructure, and increasing public awareness of the importance of child protection.

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