

A Legal Review of the Criminal Acts of Children Performed by Children

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Abstract

The crime of murder committed by a child is seen as a crime that takes the life of another person. Children who are shoots, the potential and successor to the ideals of the nation's struggle, of course, cannot be simply punished by the act of murder, he did even though the deed this has taken the lives of other people, considering the function and role of children itself. This paper described a factors that cause criminal acts the murder of children committed by children, legal sanctions for perpetrators of criminal acts child homicide by children, and the role of the police in tackling the crime of child homicide committed by children. This type of research is empirical juridical research, using data from field studies obtained through interviews with M. Ali Ahmadi, as an investigator of the Binjai Police, and also supported by literature study data, so that the data is collected and then analyzed qualitatively. Factors causing the crime of child homicide committed by children consist of factors during the growth of the attitude and mentality of children who are not yet stable, factors family environment, school environment, social environment, and media factors mass or social media. The legal sanction is imprisonment with the threat deducted by the adult penalty. The role of the police in tackling the crime of child homicide, namely preventively is actions taken to prevent or maintain the possibility of occurrence crime. While repressive is an attempt to emphasize the number of crimes by punishing criminals and trying to do the deed by correcting the child offender. The role of the police in tackling the occurrence of child homicides carried out by children, namely, the police should be able to play a more active role in collaborate with other agencies to provide awareness counseling law to the community to better supervise the association of children so as not to fall into the incitement of those around him who are not good, especially related to indication of a murder committed by a child.

Keywords

the role of the police; murder; children



I. Introduction

Children as a younger generation in addition to as objects also play a role as the subject of development. A child will be the hope of a successor the survival of a nation. Because the fate of a nation depends on the next generation. If the next generation is good, then it can be ensured that the life of a nation will also go well. But on the other hand, if the next generation is damaged, then the life of the nation is damaged. So important is the next generation for the

survival of the nation. The child's presence does need attention, especially regarding his behavior. In the development towards adulthood, sometimes a child commits deviant deeds, the child can do bad deeds, thus harming himself and even others. Such behavior is caused because, in the period of growth, the child's attitude and mentality are not yet stable and also inseparable from his social environment.

Several theoretical positions can be appealed to concerning the relationship between dropping out of school and criminal activities. The two criminological theories that have received the most attention in relation to criminal behaviour in children are strain theory and social control theory. Today, there are a large number of juveniles dropping out of school for various reasons. The problem presents a domino effect. (Philips, S. 2020)

Deviation of behavior or act in violation of the law committed by the child is usually caused by various factors including the impact negative of the rapid development, the current of globalization in the field Nashriana, Legal Protection of Children in Indonesia, Raja Grafindo Persada, Jakarta, 2012, p. Communication and information, advances in science and technology, and changes in the style and way of life of some parents.

Children, as well as one of the human resources and the next generation of the nation, should receive special attention from the government, to train children to realize strong and quality human resources. In connection with the upbringing of children, facilities and infrastructure are needed a law that anticipates any problems that arise. The facilities and infrastructure in question concern the interests of the child as well as those concerned aberrations of attitudes and behaviors that make the child forced to be confronted to court face. Child crimes is a serious problem in every country. The settlement of a crime requires that there be a difference between the behavior of the adult and the perpetrator of the child, seen from the position of a child legally not yet burdened with obligations compared to an adult, as long as a person still called a child, as long as he is not held accountable if there is a problem with the child is tried how his rights are protected by law.

A child is someone who is considered immature in terms of age. The limits of a person are said to have no uniformity as a child. The laws in force in Indonesia determine the age level of a person said to be a child, but the laws in force in 2 Satjipto Rahardjo, Law Enforcement Issues (A Sociological Review), Genta Publishing, Yogyakarta, 2009, p. 15.

Indonesia does not have uniformity in determining the age level of a person who can be said to be a child, related to the issue of determining the criminal responsibility of children. 3. Based on this, in public life, it is not uncommon to find someone who is said to be a child committing a crime. Like a child committing theft, murder, rape, and so on. The child who commits the crime is not free from responsibility the law is positive towards the actions he commits so that it is a noble task for law enforcement to impose appropriate and appropriate sanctions on the child given that the child still has a long future.

Enforcement of the law of the child as a perpetrator must be subject to a legal consequence, a matter that is closely related to the issue of sentencing. The purpose of law enforcement is to be achieved, namely the fulfillment of a sense of justice and the achievement of certainty law. The nature of this conviction is not merely punitive in nature child, but to correct the child by refraining from that act deviate.

The conviction of a child is not a retaliation his actions even if the child must be responsible for his actions that to the detriment of others, it must be emphasized to him that the form of punishment is not the price of death for his actions and a child in conflict with the law is the responsibility of the government and society.

Based on this related case a crime of murder which committed by a minor is considered a criminal act which take the lives of others. Children who are shoots, potential, and successors the ideals of the nation's struggle, of course, cannot be simply punished by the act of murder

that he committed even though the act had taken the lives of others, considering the function and role of the child itself.

The ability of children is still limited and not as perfect as adults must be considered by the law and law enforcement officials in implementing sanctions against children who commit murder crimes. However, sanctions for criminal acts committed by children will refer to: Law Number 11 of 2012 concerning the Juvenile Criminal Justice System contains and regulates criminal acts committed by children.

Based on the background in writing this paper, the author is interested in conduct research related to the problem of the crime of homicide committed children in which are focused in cases of children as perpetrators in criminal acts the murder of children.

II. Review of Literatures

2.1 Roles of Laws

The role is a dynamic aspect of a position or status. If a person performs the rights and obligations by the position then he carries out a role. Meanwhile, according to the theory role (role theory) quoted by Setiawan said that "The role is a set of behaviors associated with a position according to this theory, different roles give rise to that behavior according to other situations relatively independent (independent) depending on the person which carry out that role, so everyone will have a role in each situation.

The role is defined as a task or assignment to someone or a group of people. The role has the following aspects:

- a. Roles include norms associated with positions or positions of one's place in society. The role in this sense is a series of rules that guide a person in social life.
- b. Role is a concept of what an individual can do in society as an organization.
- c. Roles can also be interpreted as individual behaviors that are important to the social structure of society.

The types of roles are as follows:

- a. A normative role is a role performed by a person or institution that based on a set of norms that apply in people's lives.
- b. The ideal role is the role performed by a person or institution that based on ideal values or what should be done by position in a system.
- c. A factual role is a role performed by a person or institution that based on concrete reality in the field of social life what happened.

2.2 Definition of Police

From an etymological point of view, the term police in several countries have inequality, as in Greek the term police are known as "politeia" in Germany is known as "Polizei" in the United States known as "sheriff". To get a clear picture of the meaning of the police, the author expresses the opinions of experts, among others: According to Van Vollenhoven, quoted by Momo Kelana, defines the term police as "organs and functions, namely as government organs with the task of supervising, if necessary, use coercion so that those who are ordered to run and not carry out orders."

The term police are as an organ and as a function. Share organs which is a government institution that is organized and structured in state organization. Meanwhile, as a function, namely the duties and authorities as well as the responsibility of the institution on the power

of the law to carry out functions, including maintaining security, public order, law enforcement protective law, protector, community service.

According to the Dictionary General Indonesian, that "police is defined as a government agency" assigned the task of maintaining public security and order". Article 1 of Law Number 2 of 2002 concerning the State Police the Republic of Indonesia states that:

- a. Police are all matters relating to functions and institutions of the police by statutory regulations
- b. Members of the National Police of the Republic of Indonesia are civil servants at Indonesian National Police.

2.3 The Crime of Murder

Murder is an activity carried out by a person and several people which results in a person and several people dying. The crime of murder in the Criminal Code is a crime against life. A crime against life (*misdrijven tegen het leven*) is an attack on the life of another person. The word murder comes from the root word kill which has the prefix and the suffix -an which means deadly. In the Big Indonesian Dictionary, it is stated that "to kill means to make death, to take one's life away, while murder means to kill, act or kill".

An act that can be regarded as murder is an act by anyone who deliberately takes the life of another person. There are at least 2 (two) people involved in the murder incident, the person who intentionally kills or takes his life is called the killer (perpetrator), while the person who is killed or the person whose life is lost is called the killed party (victim). Murder is an act that can cause the loss of another person's life. In the Criminal Code, criminal acts against life are regulated in Book II Title XIX (Article 338 to Article 350). To eliminate the life of another person, an actor must do something or a series of actions that result in the death of another person with a note that the profit from the perpetrator must be aimed at the result in the form of the death of the other person.

2.4 Understanding Children

Children in the Big Indonesian Dictionary are defined as "As descendants, Children also contain the notion of being a small human being. Other than that, A child is essentially a person who is at a certain stage of development and have the potential to become adults".¹⁷ Understanding children in particular can be interpreted according to Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Protection Child in Article 1 paragraph (1), that what is meant by a child is "a person" who are not yet 18 (eighteen) years old, including children who are still in the content".

The definition of children has a very broad meaning, children are categorized into: several age groups, namely childhood (aged 0-12 years), adolescence (aged 13-20 years), and adulthood (aged 21-25 years). During childhood, children tend to have traits that like to imitate what they do other people and their emotions are very sharp. At this time, the child begins to look for peers and start connecting with insiders the environment then begins to form thoughts about himself.

Furthermore, at this time the child's development can develop properly Fast in all areas, whether it's changed in body, feelings, intelligence, attitude social and personality. Children are the next generation of a nation, so children too have rights that must be recognized and protected by the state, children's rights too is part of human rights even though the child is still in the womb a mother, while what is meant by child protection itself is all efforts aimed at preventing, rehabilitating, and empowering children who experience acts of abuse, exploitation, and neglect so that can guarantee the survival and growth of children naturally, both physical and social.

III. Research Methods

This research is descriptive, namely research which describes certain characteristics, conditions, symptoms or groups or to determine the spread of a symptom or to determine the presence or absence of the relationship between a symptom and other symptoms in society and also the type of research used by the author is empirical juridical, namely a approach method that examines secondary data first and then followed by researching primary data in the field or towards society. Where the researcher also uses two methods of data collection, namely:

- a. Library research, which is researching in the library by reading and studying books and other scientific literature related to the problem to be discussed.
- b. Field research is research that is carried out directly into the field for research get data that has to do with the thesis that will be discussed. In this case, the author uses the interview method, which is one of the methods of collecting data that get information directly by asking questions to informants.

The types of data used in this study include secondary data which obtained from the literature and primary data from the field in the relevant agencies, as for the data are as follows:

Secondary data, namely through reviewing the data obtained in the regulations legislation, books, texts, journals, research results, and others through systematic and purposeful data inventory, does one rule conflict with other rules or not, so that the data obtained is more accurate.

By using secondary data types consisting of legal materials primary, secondary and tertiary to support primary data, this is used keeping in mind that the problems studied revolve around regulations legislation, namely the relationship of one regulation to another and relation to the application in practice.

3.1 Primary Legal Materials

This primary legal material includes consisting of:

- a. The Criminal Code.
- b. Law Number 11 of 2012 concerning the Criminal Justice System Child.
- c. Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

3.2 Secondary Legal Material

Library materials that contain information about primary materials, namely:

- a. Books.
- b. Legal Scientific Work.
- c. Electronic Mass Media.

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To conclude the research that has been collected, here the author as an analytical instrument will use the method of jurisqualitative analysis. In the sense that analyzing the data obtained by emphasizing the normative review of the object of research and existing regulations as positive law. After a new analysis then, in the end, conclusions are drawn by providing recommendations.

IV. Discussion

4.1. The Role of the Police in Overcoming the Occurrence of Crime Child Murder by Children

The police have an important role in realizing security and comfort in social life, the police are an institution protector of the community in all social conditions that are messy. Role police can be said to be an aspect of the position related to position as protector of society.

The role of the police in dealing with the crime of child homicide the activities carried out by children in the Binjai Police area are divided into two, namely: preventive and repressive:

The Preventive Role of the Police in the Crime of Child Murder done by child Preventive is an action taken to prevent or maintain the possibility of crime. According to A. Qirom Samsudin M, in the relation to taking preventive action is to prevent more crime better than educating criminals to be good again, because not only taken into account in terms of costs, but this effort is easier and will get results satisfying or achieving a goal. Bonger further argues that the way to tackle crime the important is:

- a. Crime prevention in the broadest sense includes reform and prevention in the sense of narrow;
- b. Crime prevention in a narrow sense includes:
 - 1) Moralistic, namely disseminating the means that can strengthen one's morals to avoid the desire to do wicked.
 - 2) Abalionistic, namely trying to prevent the growth of evil desires and eliminating the well-known factors that cause crime, for example, improving the economy (unemployment, hunger, enhance civilization, and others);
- c. Attempts to supervise and control crime by trying to create:
 - 1) Good police organization and equipment system,
 - 2) An objective judicial system,
 - 3) Good law (laws).
- d. Prevent crime with regular surveillance and patrols;
- e. Prevention of juvenile delinquency as a key tool in prevention efforts crime in general.

Based on this, the preventive role is carried out by the police aims to prevent this from happening the crime of child murder committed by a child is also in the legal area Binjai Police. In connection with the above description related to the crime of killing children committed by children, the police are obliged to carry out countermeasures by police duties in general based on Law Number 2 of 2002 concerning the Republic of Indonesia National Police Indonesia is:

- a. Maintain public security and order;
- b. Enforce the law; and
- c. Provide protection, protection, and service to the community.

Based on this, it is related to the role performed by the Binjai Resort Police in a preventive manner in the crime of murder children committed by children, including:

a. Patrol Activities

Patrol activities are carried out at any time without any specific schedule for 24 hours. This is done by all units in the Police Binjai Resort. In a preventive role against the crime of child murder committed by children, it is carried out through activities such as. patrols in areas where there are frequent fights between teenagers/children which leads to abuse, and can also cause child victims who died, as it was also caused by factors wrong association of children

who often gather on the streets and provoke others children who gather also to take any action that can caused the loss of a child's life.

This patrol activity aims to anticipate and comb places suspected of frequent criminal acts of child homicide committed by child. In addition, it aims to make perpetrators and victims aware of their existence police patrols can use their intentions to commit crimes child murder by a child or the police can arrest the perpetrators of child murder committed by children as well.

b. Socialization Activities in the Community

The meaning of socialization itself is an activity to introduce, describe, clarify a norm, value, custom, or thing others whose implementation is aimed at making the community more understand what is being communicated. So, it can be said Socialization is a process of distribution of values or rules to others from one person, from generation to generation, in a group as well as society.

4.2. Police Obstacles in Overcoming the Occurrence of Crime Child Murder by Children

a. Barriers in the Preventive Role

Barriers to preventive action encountered by the police in overcoming the crime of child murder committed by children in the jurisdiction of the Binjai Police, namely the indiscipline of the Police in socialization activities in the community Weather conditions that are quite hindering the party The police in carrying out socialization activities so that resulted in the Police arriving late at the location of the activity socialization, even though the time for the socialization activity has been determined.

And also, Socialization activities clash with other interests of the Satbinmas Polres Binjai Socialization activities are only carried out if you receive an invitation from the school or community.

b. Barriers to Repressive Measures

1. Problems with Operational Costs

In carrying out the process of searching for suspects who are outside The Binjai area, of course, requires no small amount of money.

2. Difficulties for the Women and Children Service Unit (UPPA) to Find Whereabouts of the Suspect

The difficulty experienced by the police was because the suspect used the name disguised when getting to know the victim so that the victim's family knowing the suspect only reports the suspect with the name used when you meet the victim. This is because the suspect and the victim meet through social networks. In addition, using a fake address so it is quite difficult to trace the whereabouts of the suspect.

4.3. Police Efforts in Facing Obstacles to Overcoming Actions Child Murder Perpetrated by Children

Although the Binjai Police have made efforts to overcome the obstacles faced, but not all crimes of child murder committed by children can be resolved. As for what has been done to overcome obstacles, among others:

a. Police Efforts in Overcoming Barriers to Preventive Action

Internal

- 1) Strict sanctions from the Binjai Police Chief against the Police who do not discipline

Regarding the police's undisciplined in socialization activities, The Binjai Police Chief gave a strict sanction in the form of a permanent work suspension administration for a week not to carry out socialization activities. This is to maintain the image of the Binjai Police in carrying out their duties according to the priority target, namely maintaining the solidarity of the National Police Binjai and take firm action against police officers who abuse authority, disciplinary violations, and violations of the law. This is done so that members of Binmas Police Binjai personnel are more disciplined and always put forward the main tasks of the National Police by Article 13 of the Law Number 2 of 2002 concerning the Indonesian National Police.

- 2) Coordinate with the school and the community in implementing socialization
Socialization only if you get an invitation from the school or society, so that it often clashes with the schedules of other interests scheduled by the Binjai Police. Therefore, the Binjai Police always coordinate with other parties, namely the school and the community to determine the time of socialization about a strong personality, disciplined, and responsible, be careful to take care of yourself, and prevention of child homicide.

V. Conclusion

1. Factors causing the crime of child murder committed by children to consist of: from internal factors, namely the period of growth of children's attitudes and mental stable, crimes committed by children are generally committed due to a lack of understanding of the good and the bad. While the factor other factors, namely external factors, namely family environmental factors, environmental school, social environment, and mass media or social media.
2. Legal sanctions for perpetrators of child murder committed by children which can be subject to criminal sanctions or action sanctions. Sanctions that can be imposed, namely imprisonment with the threat reduced by the threat adult punishment, while the actions that can be taken are: returns to parents/guardians, handed over to the government or institutions social organizations such as foundations and charities and so on.
3. The role of the police in tackling the crime of child murder carried out by children is divided into two, namely preventive what is done to prevent or maintain the possibility of crime. While repressive is an attempt to emphasize the number of crimes by punishing criminals and trying to also perform actions by correcting the perpetrator.

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