

Criminal Responsibility for Children Conflicting with Law, Criminal Travelers with Violence (Case Study Number:01/pid.sus.anak/2015/pn.mrs)

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Abstract: *The purpose of this research is to find out how Law Number 11 Year 2012 concerning the Criminal Justice System regulates how criminal liability for unlawful acts committed by children who commit crimes of theft with violence, based on the provisions in force in Indonesia and how to apply criminal penalties. appropriate for children who are in conflict with the law, which prefers coaching and learning both for children. The research method used is normative juridical research with a statutory approach. The results of this study are that children who are in conflict with the law get legal protection in taking responsibility for acts in accordance with law number 11 of 2012 concerning the Criminal Justice System which has accommodated the concept of diversion and restorative.*

Keywords: Criminal responsibility of children, Children in conflict with the law, Theft with violence.

1. Introduction

The times are quite advanced, not only in engineering and trade but also in law. The development of the times is also followed by the development of crime rates. The development of life that is happening in Indonesia today is very fast. Progress and implementation in all fields of social, political, economic and cultural negative impacts on improving the quality and diversity of various disputes that disturb society.

Transnational crime is committed by the professionalism of the apparatuses who are truly experts in their fields and have experience about practices related to the fields they are handling. Proportionally needed by the community. Crimes in the State of Indonesia are now increasingly diverse types and modes. The last few years 2019 is still developing criminal acts with violence which are carried out today by children as a challenge to criminal acts with violence. Children's behavior is often referred to as juvenile delinquency (juvenile delinquency).

The definition of a child according to Law Number 23 of 2002 concerning children, children are not people who are 18 years old and even still in the womb.¹

International determine the age limit of children in the task force in the Youth Abuse Prevention Unit, determine as should limit age be categorized as a child in the context of criminal liability, decide the age of 10 years and be limited to 16-18 years, UN Resolution 40/33 on the UN Minimum Rules The Standards for the Administration of Juvenile Justice (Beijing Regulation) set limits for children 7-10 years and UN Resolution 45/113 only sets an upper limit of 18 years, meaning that children conform to those under 18 years of age.²

¹Pasal 1 angka 1 UU No. 23 tahun 2002 Tentang Perlindungan Anak.

²Paulus Hadisuprpto, Juvenile Delinquency, 1997, Pemahaman dan Penangulangannya, Bandung: Citra AdityaAdityaBakti, h. 8.

The development of adult follow-up is carried out by individual children and together with adults. The development of criminal acts committed by children so far, both from the quality and modus operandi, starting from unlawful acts committed by children greatly disturbs all special parties of researchers.³

According to Roeslan Saleh, whether a person commits a crime depends on whether or not the crime was committed, whether someone who committed the crime did indeed have a mistake then of course it can help, and will help him do the forbidden and deplorable, but has no fault which of course was not convicted.⁴

By fulfilling the conditions for a child's criminal liability, this means that the child may be subject to criminal punishment. Criminalization of children should pay attention to the development of a child. This is due to the fact that children cannot / think less and lack consideration for their actions. In addition, children who commit criminal acts do not have criminal motives in carrying out their actions which are very different from adults who commit criminal acts because there are indeed criminal motives.⁵ Providing criminal liability to children must consider their development and best interests in the future. The wrong handling causes damage and even the destruction of the nation in the future, because children are the next generation of the nation and the ideals of the State.

Social phenomena that occur that juvenile delinquency also occurs in one of the jurisdictions of the Maros District Court committed by a child named MUHAMMAD REZKI Alias BLANGKO Bin ABBAS who is still 17 years old has been

³Nandang Sambas, 2010, Pembaharuan Sistem Pemidanaan Anak di Indonesia, Yogyakarta: Graha Ilmu, h. 103

⁴Roeslan Saleh, 1983, Perbuatan Pidanan Pertanggungjawaban Pidana dua pengertian dan sardalam Hukum Pidana, Jakarta: Aksara Baru, h. 75

⁵Marlina, 2012, Peradilan Pidana Anak di Indonesia Pengembangan Konsep Diversi, Bandung: PT. Refika Aditama, h. 2

proven to have committed a crime of theft with violence in one of the gas stations in the Maros area together with his friends by carrying out violence and threats against the gas station staff by using a bow and taking money in the gas station drawer and seizing bags belonging to one of the gas station officials as stipulated in article 365 paragraph (2) to - 1, and the 2nd, the Criminal Code and the Panel of Judges of the Maros District Court convicted MUHAMMAD REZKI Alias BLANGKO Bin ABBAS with imprisonment for 2 (two) months as stipulated in the Decision on the Case of the Maros District Court Number: 01 / Pid.Sus. Children / 2015 / PN.Mrs.⁶

Efforts to foster, develop and protect children require the participation of the community, both child protection institutions, religious institutions, non-governmental organizations, social organizations, social organizations, the business world, mass media or educational institutions. If a child commits an offense and a criminal offense, then the child has the right to receive protection and special treatment in terms of the judicial process as regulated by Law Number 11 of 2012 concerning the Criminal Justice System for Children.

1.2. Formulation of the Problem

Based on the background that the author has described, the problems in this study are:

- 1) What is the regulation of criminal liability for unlawful acts committed by children who commit acts of theft with violence, based on the provisions in force in Indonesia?
- 2) How to apply appropriate punishment for a child who is in conflict with the law, which prioritizes coaching and learning both for the child and other children?

1.3 Research purposes

The aim of this research is :

- 1) To analyze how the regulation of criminal liability for unlawful acts committed by children who commit crimes of theft with violence, based on the provisions in force in Indonesia.
- 2) To analyze how to apply appropriate penalties for a child who is in conflict with the law, who prioritizes coaching and learning both for the child and other children.

2. Research Methods

The research method used in this research is normative juridical research with a statutory approach.

Normative juridical research is research that is focused on studying the rules or norms in positive law.

Research the approach to the law - an invitation to examine the laws and regulations relating to criminal liability towards children.

3. Results and Discussion

3.1. Arrangement of Criminal Liability for Violating Laws Conducted by Children Who Commit Crime of Theft with Violence, Based on Provisions in force in Indonesia

The latest law governing children in conflict with the law is Law Number 11 of 2012 concerning the Criminal Justice System for Children (SPPA Law) in lieu of Law Number 3 of 1997 concerning Juvenile Courts which takes effect two years after the date of ratification, namely the date July 30, 2012 as referred to in the Closing Provisions (Article 108 of the SPPA Law) means that the juvenile justice system legislation came into force on July 31, 2014, to create a judiciary that truly guarantees the best interests of protection for children in conflict with the law.

The basis for a crime is the principle of legality while the basis for being convicted is the principle of error.⁷

The juvenile justice system is the whole process of resolving cases of children dealing with the law, from the investigation stage to the guidance stage after serving a crime.⁸

Juvenile Justice is one of the special courts which is in the general court environment as regulated in Law Number 11 of 2012 concerning the Juvenile Justice System. the understanding of children in the Criminal Justice System Law for minors as a child who is 12 years old but not yet 18 years old and distinguishes children who are involved in a crime in three categories:

- 1) Children who are the perpetrators of a crime as referred to in article 1 number 3 of the Law on the Criminal Justice System for Children are as follows: "Children who are in 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 criminal offenses."
- 2) Children who are victims of criminal offenses (Child Victims) Article 1 number 4 of the Law on the Criminal Justice System for Children as follows: "Children who become Victims of Crime, hereinafter referred to as Child Victims, are children who are not yet 18 (eighteen) years of age who suffer physical, mental, and / or economic losses caused by criminal acts." and,
- 3) Children who witness criminal acts (Witness Children) Article 1 number 5 of the Law - Act the juvenile justice system as follows: "Children who become Criminal Witnesses, hereinafter referred to as Witness Children, are children who are not yet 18 (eighteen) years of age who can provide information for the purposes of investigation, prosecution, and examination in a court of law concerning a criminal case that is heard, seen, and / or he experienced it himself.

⁷Jeferson B Pangemanan, 2015, "Pertanggung Jawaban Pidana Anak Dalam sistem peradilan pidana indonesia", Lex et Societatis, Vol.II/No1/ Jan-Mar/2015 URL:<https://ejournal.unsrat.ac.id/index.php/lexetsocietatis/article/view/7075>, diakses tanggal 2 Maret 2020.

⁸Pasal 1 ayat (1) undang – undang nomor 11 tahun 2012 tentang sistem peradilan pidana anak.

⁶Direktorat Putusan Mahkamah Agung file:///E:/01 Pid.Sus.Anak 2015 PN.Mrs%20(1).pdf diakses tanggal 30 September 2019 pukul 17.48 Wib.

Law No. 3 of 1997 challenges the Juvenile Court not to distinguish the categories of Victim Children and Witness Children. As a consequence, Victim's Children and Witness Children do not get legal protection. This results in many crimes that are not resolved or even not reported because children tend to be afraid of facing the criminal justice system.

In Law Number 11 Year 2012 concerning the Criminal Justice System for Children, criminal liability against children is very clear that a child is 12 (twelve) years old, but is not yet 18 (eighteen) years old.

Social phenomena that occur that juvenile delinquency also occurs in one of the jurisdictions of the Maros District Court committed by a child named MUHAMMAD REZKI Alias BLANGKO Bin ABBAS who is still 17 years old has been proven to have committed a crime of theft with violence in one of the gas stations in the Maros area together with his friends by carrying out violence and threats against the gas station staff by using a bow and taking money in the gas station drawer and seizing bags belonging to one of the gas station officials as stipulated in article 365 paragraph (2) to - 1, and the 2nd, the Criminal Code and the Panel of Judges of the Maros District Court convicted MUHAMMAD REZKI Alias BLANGKO Bin ABBAS with imprisonment for 2 (two) months as stipulated in the Decision on the Case of the Maros District Court Number: 01 / Pid.Sus. Children / 2015 / PN.Mrs.

That the purpose of punishment is not to take revenge on the child but to remind that the act that has been done by the child is in violation of the provisions of the Law, therefore it is wrong, so that in the future be more careful and not commit the act, and return to being a responsible citizen responsible for yourself, family and the environment.

The juridical basis governing theft is the Criminal Code (KUHP) which detailed the theft of crime in Chapter XXII on Theft.⁹

Provisions in Article 365 of the Criminal Code stipulate that:

- 1) Threatened with a maximum imprisonment of nine years of theft that is preceded, accompanied or followed by violence or threats of violence against people with a view to preparing or facilitating the theft, or if caught red-handed, to allow yourself or other participants to escape, or to keep control of stolen property
- 2) Threatened with a maximum imprisonment of twelve years.
 - First if the act is done at night in a closed house or yard that has a house, on a public road, or on a train or tram that is running;
 - Second if the act is carried out by two or more people in alliance;
 - 3rd if the guilty person enters the scene of committing a crime by damaging or climbing or by using fake keys, false orders or fake office clothing;
 - Fourth if the act resulted in serious injuries.

- 3) If the act results in death, then the guilty person is threatened with a maximum imprisonment of fifteen years.
- 4) Threatened with capital punishment or life imprisonment or imprisonment for a certain period of time of no more than twenty years, if the act results in serious injury or death and is committed by two or more people in fellowship, accompanied by one of the things described in numbers 1 and 3.

According to the theory of criminal liability Roeslan Saleh in a broad sense has three fields, namely:¹⁰

- 1) The ability to take responsibility for the person doing the deed.
- 2) The inner connection (psychic attitude) of people who commit actions with their actions:
 - a) Acts that are intentional, or.
 - b) Actions that are absent, negligent, inadvertent.
- 3) There is no reason for the eradication of criminal liability for the maker.

According to Lili Rasdjidi and Ira Rasjidi, a criminal act is an act that is prohibited by a legal regulation which prohibits threats (sanctions) in the form of certain crimes, for those who violate the prohibition. The criminal liability or wrongdoing of a person whether he is convicted must meet the following formula:¹¹

- a) The ability to take responsibility for the person doing the deed.
- b) Inner connection (psychic attitude) of people who commit actions with their actions, in the form of intent (dolus) or negligence (culpa).
- c) There is no reason to erase criminal liability or error for the maker.

Imposition of Sanctions according to the Law on the Juvenile Justice System that a child in conflict with the law can be subject to two types of sanctions, namely sanctions for criminals under the age of 14 as referred to in Article 69 paragraph (2) of Law Number 11 Year 2012 Concerning the Child Criminal Justice System and criminal sanctions for perpetrators of crimes aged 15 years and over as referred to in Article 71 of the Law on the Criminal Justice System for Children.

- 1) Sanctions Actions that can be imposed on children in conflict with the law are regulated as referred to in Article 82 paragraph (1) of Law Number 11 Year 2012 concerning the Criminal Justice System for Children: Actions that can be imposed on a Child include:
 - a) returns to parents / guardians;
 - b) surrender to someone;
 - c) treatment in a mental hospital;
 - d) treatment at LPKS;
 - e) the obligation to attend formal education and / or training provided by the government or private body;
 - f) revocation of driving license; and / or
 - g) repairs due to criminal acts.

¹⁰RoeslanSaleh, *PerbuatanPidanadanPertanggungjawabanPidana*, Aksara Baru, Jakarta, 1999, h.93

¹¹LiliRasdjididan Ira Rasjidi, 2001, *Dasar-Dasar Filsafatdan Teori Hukum*, Citra AdityaBakti, Bandung, hlm. 74

⁹DjokoPrakoso, *DelikDalam KUHP*, Yogyakarta,Liberty, 2007, h. 29.

- 2) Criminal sanctions that can be imposed on child offenders divided into basic crimes and additional crimes are regulated as referred to in Article 71 of the Criminal Justice System for Children:
- Principal crimes for children consist of:
 - criminal warning;
 - Criminal on condition:
 - Coaching outside the institution;
 - Community service; or
 - Supervision
 - Work training;
 - Coaching in institutions; and
 - Jail.
- 3) Additional crimes consist of:
- deprivation of profits derived from criminal acts; or
 - fulfillment of customary obligations.

Article 21 of Law Number 11 Year 2012 Concerning the Criminal Justice System for Children regulates in the case that children not yet 12 (twelve) years old commit or are suspected of committing criminal offenses, Investigators, Social Guides, and Professional Social Workers make decisions to:

- hand it back to the parent / guardian; or
- include it in education, coaching and mentoring programs in government agencies or LPKS in institutions that deal with the field of social welfare, both at the central and regional levels, for a maximum of 6 (six) months.

Article 3 of Law Number 11 Year 2012 Concerning the Child Criminal Justice System regulates the Rights of the Child as follows: "Every child in the criminal justice process has the right:

- Treated humanely with due regard to needs according to age;
- Separated from adults;
- Obtain legal assistance and other assistance effectively;
- Carry out recreational activities;
- Freedom from torture, punishment or other cruel, inhuman and degrading treatment;
- Not sentenced to death sentence or life imprisonment;
- Not be arrested, detained or imprisoned, except as a last resort and in the shortest amount of time;
- Obtain justice before the juvenile court that is objective, impartial, and in a hearing that is closed to the public;
- The identity is not published;
- Get the assistance of parents / guardians and people trusted by the child;
- Get social advocacy;
- Obtain a private life; obtaining accessibility, especially for children with disabilities;
- Get an education;
- Obtain health services; and
- Obtain other rights in accordance with statutory provisions.

Article 4 of Law Number 11 Year 2012 concerning the Criminal Justice System for Children states that children who are undergoing a criminal period are entitled to:

- Remission or reduction of criminal period;
- Assimilation;
- Leave to visit family;
- Parole;

- Free leave;
- Conditional leave;
- Other rights in accordance with statutory regulations.

Article 32 paragraph (2) of Law Number 11 Year 2012 concerning the Juvenile Criminal System regulates the detention of children in conflict with the law, that the detention of a child can only be carried out on condition that the child is 14 (fourteen) years old, or is suspected of committing criminal offenses with the threat of imprisonment of seven years or more. If the period of detention as mentioned above has ended, the child must be released from detention by law.

Article 58 paragraph (3) of Law Number 11 Year 2012 concerning the Criminal Justice System for Children regulates the Examination of Children as Witnesses or Victim Children.

In Law Number 11 Year 2012 Regarding the Child Criminal Justice System provides facilities for Victim Children and / or Witness Children can not be present to provide information before a court hearing, the Judge can order the Victim's Children and / or Witness Children to be heard outside the court hearing through electronic recording conducted by Community Guides in the local legal area attended by Investigators or Public Prosecutors and Advocates or other legal aid providers or through remote direct examination with audiovisual communication tools accompanied by parents / Guardians, Community Guides or other assistants.

Article 23 of Law Number 11 Year 2012 Concerning the Child Criminal Justice System regulates the Right to Legal Aid.

That children who are in conflict with the law are entitled to legal assistance and are accompanied by a Community Guidance or other pendmping in accordance with the provisions of the legislation at each stage of the examination, both in the stage of investigation, investigation, prosecution, and the stage of examination in court. At each level of examination, Victim's Children or Witness Children must be accompanied by parents and / or persons trusted by Victim's Children and / or Witness Children, or Social Workers, otherwise in accordance with article 23 Paragraph (3) of Law Number 11 Year 2012 Regarding the Child Criminal Justice System, in the case of parents as suspects or defendants in the case being examined, the provisions referred to in paragraph (2) do not apply to parents.

3.2. Applying the Right Penalty for a Child in Conflict with the Law, which prefers Coaching and Learning both for the Child and Other Children

Law No. 11/2012 concerning the Child Criminal Justice System is currently seeking the best form of punishment for children (premium remedium). The juvenile justice system was born because the previous juvenile court law was no longer in accordance with the legal needs in the community and had not comprehensively provided special protection for children in conflict with the law. So that there needs to be a paradigm shift in handling children in conflict with the law,

among others based on the roles and duties of the community, government, and other state institutions that are obliged and responsible to improve children's welfare and provide special protection to children and provide special protection to children in conflict with the law.

Crimes committed by children need attention from the government. This causes very bad consequences for society in general and for the development of the child itself in particular.¹²

Law Number 11 of 2012 concerning the Juvenile Justice System is all elements of the criminal justice system related to the handling of cases of children in conflict with the law, including:¹³

- 1) The police as a formal institution when children in conflict with the law first come into contact with the justice system, which will also determine whether children who are in conflict with the law will be released or further processed.
- 2) Prosecutors and parole institutions will also determine whether children in conflict with the law will be released or processed in juvenile court.
- 3) Juvenile Court, the stage when a child in conflict with the law will be placed in choices, ranging from being released to being included in the institution of punishment.
- 4) Institutional punishment.

In Law Number 11 Year 2012 Regarding the Child Criminal Justice System, there are three substances relating to the criminalization of children, namely:

1) Restorative Justice (Restorative Justice),

Restorative Justice together with Diversi is an effort to settle criminal cases outside the court by involving perpetrators, victims, perpetrators / victims, and other related parties to jointly seek a fair resolution by emphasizing restoration back to its original state and not retaliation.

The concept of restorative justice, is the process of resolving violations of law committed by bringing victims and perpetrators (suspects) together to sit in a meeting to talk together.¹⁴

In its implementation, restorative justice can also be carried out with activities such as: Conduct mediation between perpetrators and victims; holding family group meetings; perform services in the community that are of a recovery nature for both victims and perpetrators. The purpose of the

implementation of the criminal justice system depends on the system, namely the retributive justice system or restorative justice.¹⁵

There are several requirements that must be met in order to implement restorative justice, namely:

- a) There must be confession or guilty statement from the perpetrator
- b) There must be an agreement from the victim to carry out a solution outside the applicable juvenile justice system
- c) Approval from the police or from the prosecutor's office as an institution that has discretionary authority
- d) Support from local communities to implement solutions outside the juvenile justice system

2) Diversity regulation as an effort to avoid settlement of cases through formal channels or based on judges' decisions aimed at:

- a) To avoid children from detention;
 - b) To avoid labeling children as criminals;
 - c) To prevent the repetition of criminal acts committed by children;
 - d) So that children are responsible for their actions;
 - e) To carry out interventions needed for victims and children without having to go through a formal process
- Avoiding children from taking part in the justice system;
- f) Keep children away from the influence and negative implications of the judicial process.

Application of diversion so that restorative justice can be realized where all parties involved in a particular crime can jointly overcome the problem and create things better by involving victims, children, and the community in finding solutions to improve, reconcile, and pacify the hearts that are not based on retaliation.

The concept of diversion can be a form of restorative justice if:¹⁶

- a) Encourage children to be responsible for their actions;
- b) Provide opportunities for children to compensate for the mistakes made by doing good for the victim;
- c) Provide opportunities for the victim to participate in the process;
- d) Provide opportunities for children to be able to maintain relationships with families;
- e) Providing opportunities for reconciliation and healing in communities that have been harmed by crime.

There are several criteria for criminal offenses involving children as perpetrators of crimes that must be sought for resolution using the diversion principle approach:

¹²RomliAtmasasmita, *Problem KenakalanAnak-anakRemaja*, Armico, Bandung, 1983, h. 37

¹³Purnianti, Mamik Sri Supatmi, dan Ni Made Martini Tinduk, mengutip Harry E. Allen and Clifford E. Simmons, dalam *Correction in America : An Introduction, AnalisaSituasiSistemPeradilanPidanaAnak (Juvenile Justice System) di Indonesia*, UNICEF, Indonesia, 2003, h. 2

¹⁴Khoeriyah, 2014,"PERTANGGUNGJAWABAN PIDANA ANAK DI BAWAH UMUR PERSPEKTIF HUKUM ISLAM (AnalisisKasusKecelakaan Abdul QodirJaelani [DUL] di TolJagorawi)"Jurnal Agama danHakAzaziManusia Vol. 3, No. 2, URL: <http://ejournal.uin-suka.ac.id/syariah/inright/article/download/1269/1097>.

¹⁵Setyadi, Angkasa, SaryonoHanadi, dan Muhammad Budi, *MODEL PERADILAN RESTORATIF DALAM SISTEM PERADILAN ANAK (KajiantentangPraktik Mediasi Pelakudan Korbandalam Proses PeradilanAnak di Wilayah HukumBalai Pemasarakatan Purwokerto)* Jurnal Dinamika Hukum 9 (3), 224-242, 2009 URL: https://scholar.google.com/scholar?cluster=10634259408800707694&hl=id&as_sdt=0.5&sciodt=0.5

¹⁶Wiwik Afifah, 2014, "Pertanggung Jawaban Pidana Anak Konflik Hukum". Jurnal Ilmu Hukum Vol. 10, No. 19, Hal. 48 - 62<https://media.neliti.com/media/publications/240062-pertanggungjawaban-pidana-anak-konflik-h-1431e76f.pdf>, diakses tanggal 1 Maret 2020, pukul 16.00 wib

- a) The category of criminal acts that are threatened with criminal sanctions up to 1 (one) year must be prioritized to apply diversion, criminal acts that are threatened with criminal sanctions above 1 (one) year up to 5 years can be considered for diversion, all cases of theft must be sought the application of diversion unless it causes or results in losses related to the body and soul.
- b) Taking into account the age of the offender, the younger the offender is, the urgency of applying the diversion principle is increasingly needed.
- c) The results of research from BAPAS, if found factors that encourage children involved in criminal cases are factors that are beyond the control of children, the urgency of the application of the principle of diversion is increasingly needed.
- d) Losses incurred by a child crime, if the consequences are material and not related to a person's body and life, the urgency of the application of diversion is increasingly needed.
- e) The level of community anxiety caused by the actions of the child
- f) Victim / family consent
- g) Willingness of the perpetrator and his family
- h) In the case of a child committing a crime together with an adult, the adult must be prosecuted according to the usual procedure

In the provisions of Article 7 of the SPPA Law¹⁷, diversion can only be applied to children who are threatened with imprisonment under 7 (seven) years and does not constitute a repeat of a criminal offense (residive). It is hoped that this will be highly considered to minimize the potential for coercion and intimidation at all stages of the diversion process. A child should not feel pressured or pressured into agreeing to diversion programs. The diversion agreement must obtain the consent of the victim and / or the family of the victim's child and the willingness of the child and his family, except for criminal acts in the form of violations, minor crimes, crime without victims, or the value of the victim's loss is not more than the value of the minimum wage of the local province.

3) Elimination of Special Minimum Criminal Threats and Penalties in Criminalities are eliminated.

After the enactment of Law No. 11 of 2012 concerning the Criminal Justice System for Children, the provisions concerning the minimum criminal threat specifically for children who are proven to have committed criminal acts no longer apply. The law before there was no clear mechanism and regulation regarding how the punishment of children who have been proven guilty of committing crimes with a specific minimum criminal threat.¹⁸ In Law Number 3 of 1997 concerning Juvenile Courts states that fines as principal crimes, differ from Law Number 11 of 2012 concerning the Juvenile Justice System which does not at all include fines as criminal forms. But in the material law there is a cumulative

criminal threat in the form of criminal fines and imprisonment, then the criminal fines are replaced by job training without any provision that the criminal fines have not been paid as in the provisions of Law Number. 3 of 1997 concerning Juvenile Courts. So that job training is automatically dropped if cumulatively stated in material law is proven to be the case.

4. Conclusion

- 1) Results of research on the case of Defendant MUHAMMAD REZKI Alias BLANGKO Bin ABBAS in a violent crime theft case decided by the Panel of Judges of the Maros District Court by imposing a sentence of imprisonment for 2 (two) months as stipulated in the Case Decision of the Maros District Court Number: 01 / Pid .Sus.Anak /2015/PN.Mrs. in accordance with and has been accommodated in the provisions of the applicable laws and regulations in Indonesia, namely Law Number 11 of 2012 concerning the Criminal Justice System for Children.
- 2) Punishment of children in conflict with the law in this case is more likely to be formal based on the provisions of the applicable law, but judges in sentencing must also consider other factors so that the souls of children who are in conflict with the law do not feel isolated, so that the sentencing of children in conflict with the law Preferably coaching and learning for the child so that later the child does not repeat his actions and become a better child in accordance with the theory of criminal nature of coaching that aims to change (reformation) the nature of the Child namely juridical improvement of the child's attitude in terms of obeying the law , intellectual improvement on ways of thinking so that the child realizes that the crime committed by the child is wrong, moral improvement regarding ethics and decency so that the child becomes a moral person, so that later the child can return to continue his habit the better future in the future as a human being in accordance with existing norms in the community, that the juvenile criminal justice system is currently seeking the best form of punishment for children (premium remedium).

5. Suggestion

- 1) The judge's duty to explore further how to decide / impose sanctions on children in accordance with applicable laws and the types of sanctions that are appropriate to be applied to children in conflict with the law by looking at what things can be burdensome or alleviate the imposition of sanctions on children in conflict with the law.
- 2) In order to apply appropriate penalties for children who are in conflict with the law, the researcher advises the judge to dig deeper and look at the child's background in deciding cases, because children are the next generation of the nation, so protection of children's rights must be considered even though the child has Acting that is prohibited by the law, children need the opportunity to improve the behavior without imprisonment which can affect the physical and mental development of the child. Example; returning to parents, submitting to the State to take part in education, coaching, and vocational training,

¹⁷Undang – Undang Nomor 11 tahun 2012 Tentang Sistem Peradilan Pidana Anak

¹⁸Yudhistira Adhi Nugraha, 2013, Pemidanaan terhadap Terdakwa Anak yang Terancam Pidana Minimum Khusus dalam Praktek di Pengadilan Sebelum Berlakunya Undang-undang No. 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak, Tesis, Universitas Indonesia, Depok.

or submitting it to the Ministry of Social Affairs or Social Organizations engaged in education, coaching and vocational training.

Qodir Jaelani [DUL] di Tol Jagorawi” Jurnal Agama dan Hak Azazi Manusia Vol. 3, No. 2, URL: <http://ejournal.uin-suka.ac.id/syariah/inright/article/download/1269/1097>.

References

- [1] Atmasasmita, Romli, 1983, *Problem Kenakalan Anak-anak Remaja*, Armico, Bandung.
- [2] Hadisuprpto, Paulus, 1997, *Juvenile Delinquency, Pemahaman dan Penangulangannya*, Citra Aditya Aditya Bakti, Bandung.
- [3] Marlina, 2012, *Peradilan Pidana Anak di Indonesia Pengembangan Konsep Diversi*, PT. Refika Aditama, Bandung.
- [4] Prakoso, Djoko, 2007, *Delik Dalam KUHP*, Liberty, Yogyakarta.
- [5] Purnianti, Mamik Sri Supatmi, dan Ni Made Martini Tinduk, 2003, mengutip Harry E. Allen and Clifford E. Simonsen, dalam *Correction in America : An Introduction, Analisa Situasi Sistem Peradilan Pidana Anak (Juvenile Justice System) di Indonesia*, UNICEF, Indonesia.
- [6] Rasdjidi, Lilidan Ira, 2001, *Dasar-Dasar Filsafat dan Teori Hukum*, Citra Aditya Bakti, Bandung.
- [7] Sambas, Nandang, 2010, *Pembaharuan Sistem Pemidanaan Anak di Indonesia*, Graha Ilmu, Yogyakarta.
- [8] Saleh, Roeslan, 1983, *Perbuatan Pidana dan Pertanggungjawaban Pidana dan Pengertian dasarnya dalam Hukum Pidana*, Aksara Baru, Jakarta.
- [9] Saleh, Roeslan, 1999, *Perbuatan Pidana dan Pertanggungjawaban Pidana*, Aksara Baru, Jakarta.
- [10] Nugraha, Yudhistira Adhi. , *Pemidanaan terhadap Terdakwa Anak yang Terancam Pidana Minimum Khusus dalam Praktek di Pengadilan Sebelum Berlakunya Undang-undang No. 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak*, (Depok, Tesis Universitas Indonesia, 2013).
- [11] Afifah, Wiwik 2014, “Pertanggung Jawaban Pidana Anak Konflik Hukum”. *Jurnal Ilmu Hukum* Vol. 10, No. 19, hal. 48 – 62, Pebruari 2014 <https://media.neliti.com/media/publications/240062-pertanggungjawaban-pidana-anak-konflik-h-1431e76f.pdf>, diakses tanggal 1 Maret 2020, pukul 16.00 wib.
- [12] Pangemanan, Jeferson B., 2015, “Pertanggung Jawaban Pidana Anak Dalam sistem peradilan pidana indonesia”, *Lex et Societatis*, Vol.II/No1/ Jan-Mar/2015 URL: <https://ejournal.unsrat.ac.id/index.php/lexetsocietatis/article/view/7075>, diakses tanggal 2 Maret 2020, pukul 13.00 Wib.
- [13] Setyadi, Angkasa, Saryono Hanadi, dan Muhammad Budi, 2009 “MODEL PERADILAN RESTORATIF DALAM SISTEM PERADILAN ANAK (Kajian tentang Praktik Mediasi Pelakud dan Korban dalam Proses Peradilan Anak di Wilayah Hukum Balai Pemasyarakatan Purwokerto)” *Jurnal Dinamika Hukum* 9 (3), 224-242, URL: https://scholar.google.com/scholar?cluster=10634259408800707694&hl=id&as_sdt=0,5&scioldt=0,5
- [14] Khoeriyah, 2014, “PERTANGGUNGJAWABAN PIDANA ANAK DI BAWAH UMUR PERSPEKTIF HUKUM ISLAM (Analisis Kasus Kecelakaan Abdul

Law and legislation

- [15] Undang – Undang Nomor 11 tahun 2012 Tentang Sistem Peradilan Pidana Anak
- [16] Undang – Undang Nomor 3 tahun 1997 Tentang Pengadilan Anak
- [17] Kitab Undang-Undang Hukum Pidana (KUHP).