

Children's Social Behavior Related to Law

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ABSTRACT

To deal with children who are related to the law, of course, all parties must be actively involved and contributive. There is also a need for synergistic integration between psychology and law to make the best decisions for children. If a child with ABH is forced to undergo trial, then moral support from the surrounding environment and positive stimulation is needed to rehabilitate the child's behavior for the better. Thus, between parents and the state have the same portion to jointly handle children in conflict with the law. This study uses descriptive analytical research specifications with analytical methods using normative qualitative methods, while the results of this study explain that children who commit criminal acts or Children in Conflict with the Law (ABH) cannot be handled only from a legal perspective which ends in court and prison consequences. However, it must also be seen from the surrounding environment that causes children to commit these criminal acts. Because basically children are still psychologically unstable and cannot think carefully about the consequences of their bad deeds. If a child is in trouble with the law, then based on the Child Protection Act, the police should still use the principles of restorative justice and discretion to deal with ABH properly and optimally. Children have rights that are specifically different from adults because of their unstable physical and mental conditions. In many cases, children need special treatment and protection, especially against actions that could be detrimental to their development and that of society. Children need other parties such as family, society, government and the state to support the natural growth and development of children.

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INTRODUCTION

Children are part of the younger generation as one of the human resources who are potential and continue the ideals of the nation's struggle, and have a strategic role, special characteristics, characteristics, and of course require special protection from various parties in order to ensure their future growth and development (Afifah, 2014). The State of Indonesia itself already has a number of rules to protect, prosper and fulfill children's rights, one of which is stated in Law no. 4 of 1979 concerning child welfare, and can be used as a reference in making policies on child protection.

As explained earlier, children are an asset and the next generation for the family, society and nation. The current condition of the child determines the condition of the family, society and nation in the future. Therefore, children must live a full life, both physically and psycho-socially to give birth to quality human resources (HR) who are able to compete in various ways, but of course through a series of debriefing and very mature learning. The needs of children can be classified into two parts, the first is physiological-organized and psychological and social needs (Andhini & Arifin, 2019).

According to Ariani (2014) what is meant by physiological-organized needs are basic needs related to physical growth and child survival. As for those included in the physiological-organized needs such as food, clothing, shelter and health. Where if the needs are not met it can cause disruption to the physical condition and health of the child. Furthermore, psychological and social needs are needs related to emotional development, and the child's personality. As for psychological and social needs, namely affection, a sense of security, establishing relationships, association and most importantly the factor of protection (Dewi, 2015).

In the journal Erdianti (2020) explains that child protection is an effort to create conditions where children can carry out their rights and obligations and based on the concept of parents patriae, the state gives attention and protection to children as befits their parents when they are in a family environment. Whereas in the contents of the Child Protection Act it is explained that children are a nation's asset and as part of the younger generation, besides that children can play a very strategic role as a determinant of the success of a nation, because basically children are mandates and gifts from God Almighty who has dignity, it is proper that children are entitled to special protection, especially protection from the state.

Meanwhile, children for the Indonesian people are as successors to the ideals of the nation's struggle, where this strategic role apart from being the determination of our predecessors as stated in the Preamble to the 1945 Constitution is also based on the international community to give birth to a convention which essentially emphasizes the position of children as human beings who must get protection for their rights (Fahlevi, 2015). Furthermore, according to the provisions of the Convention on the Rights of the Child which have been ratified by the Indonesian government through Presidential Decree Number 36 of 1990 which put forward the general principles of child protection, must be based on non-discrimination, the best interests of the child, survival, growth and development, and respect for the views of the child, then in the context of life, these principles can be used to guarantee survival and legal protection from the state in safeguarding every child's rights, especially when the child is dealing with a legal problem.

Irda & Michael, (2022) speak that the best interests for children should be internalized as an indicator in shaping the character of a nation, this is based on the consequences of the provisions of the 1945 Constitution of the Republic of Indonesia which guarantees every child's rights and obligations. Furthermore, child protection related to law is a shared responsibility between law enforcement officials, not only children as perpetrators, but also children as victims and witnesses. In addition, the process of court cases for children since they are arrested, detained and tried, their guidance must be carried out by special officials who understand the problems of children in depth.

Article 1 paragraph (2) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) defines a child in conflict with the law as a child in conflict with the law, a child who is a victim of a crime, and a child who is a witness to a crime. The SPPA Law uses a restorative justice approach in which the settlement of criminal cases involves the perpetrator, the victim, the perpetrator/victim's family, and other related parties to jointly seek a fair solution by emphasizing restoration to its original state, and not to retaliate. The consequence of restorative justice is to prioritize the best interests of children rather than the interests of society. Therefore Article 2 of the SPPA Law, the Juvenile Criminal Justice System is implemented based on the principles of protection, fairness, the best interests of the child, respect for the opinion of the child, and avoidance of retaliation. Apart from that, Article 3 also stipulates that every child in the

criminal justice process has the right to be treated humanely by taking into account the needs according to his age and most importantly to obtain justice before a juvenile court which is objective, impartial, and in a hearing which is closed to the public (Jafar, 2015; Nurwati & Achmad, 2023).

Application of RI Law No. 11/2012 concerning the Juvenile Criminal Justice System with the spirit of restorative justice has been running effectively but the increase in the number of children in conflict with the law is still experiencing an upward trend. Data from the Indonesian Child Protection Commission (KPAI) states that in the 2015-2018 interval it was 0.08% or an increase of 232 child cases. The research results of Juliana & Arifin, (2019) argue that the spirit of restorative justice is a form of progress in the criminal justice system in Indonesia. However, it still needs to be continuously developed in order to achieve the goals of the Juvenile Criminal Justice System, namely prioritizing the best interests of the child.

The results of Krisna's research (2018) view that in dissecting cases of Children in Conflict with the Law (ABH), we need to look at how psychologists discuss human development, where we need to know the dynamics of child development in order to understand and predict the causes of behavior. According to Subarsyah & Achmad (2023), personality develops as a response to the four main stresses in children which often appear in everyday life, including the process of physiological development, frustration, conflict and threats. Increased tensions from several of the above sources force a child to be able to learn and find a way out of what they are facing, including in this case when a child is in contact with a law.

Based on the causes of children's behavior, we can understand that children in conflict with the law are actually victims of their psychosocial environment, including their family environment and social environment. Therefore, the behavior of children committing criminal acts is included in maladaptive behavior with the demands of social norms and environmental laws. The law on the juvenile justice system promotes restorative justice in the spirit of restoring a healthy relationship between a child's behavior and social norms. Children who commit crimes are actually victims of a parenting style that does not develop the two main qualities of a child's personality (Kusuma & Sutapa, 2020; Achmad, 2023).

The above phenomenon is exacerbated by the social environment outside the home which tends to be negative. As an accomplished imitator, children in social circles do not get positive role models (models). The process of socialization in the social environment makes children tend to be influenced by their peers, and it is often found that children are under social pressure (orders) from adults to commit crimes. Children cannot actually be held accountable before the law, because in substance they are victims (Lefaan & Suryana, 2018). After knowing how the background is the formation of ABH behavior, then we will understand why the best interests for the future of children must take precedence and take precedence over the interests of society.

Mustofa (2021) revealed that social behavior does play a very important role, especially in the process of adjusting children to the rules of their surroundings. Social behavior is obtained by children through maturity and learning opportunities from various stimuli provided by their environment. A good and healthy social environment can help children develop positive self-concepts and support optimal socialization processes. The success of these goals is not possible without the involvement of family members, schools, and the community around the child. Therefore, the family environment is the first place for children to get education and affection. In accordance with the Law on the Rights and Obligations of Parents Article 7 that parents have the

right to participate in selecting educational units and obtaining information about their child's educational progress. So, based on the description and explanation of the background that was previously submitted, the researcher was interested in finding out more about the role of social behavior towards children related to the law.

METHOD

This study uses analytical descriptive research specifications, namely describing various legal issues and facts to provide data as accurately as possible about humans, conditions or other symptoms related to the condition of children related to law, to be further compiled using a normative juridical approach method, namely tracing, studying and researching secondary data (Jonaedi Efendi et al., 2018). The research phase was carried out using library research, namely collecting secondary data consisting of primary legal materials in the form of laws and regulations with data collection techniques carried out through library study techniques then the data was processed through analytical methods using qualitative normative methods (Yulianah, 2022).

RESULTS AND DISCUSSION

In fact, children are heirs, successors, and assets who will carry out the duties of the nation in the future. In fact, children are the social and economic capital of a nation, while for parents, children have a special value that is important, namely as the successor of offspring. To fulfill these two aspects, it is hoped that children can grow and develop as well as possible, so that later they become adults who are physically, mentally and psychosocially healthy as highly qualified human resources. The family is the life environment that is known to children for the first time, and henceforth children learn a lot in family life. Therefore, the role, attitude and behavior of parents in the process of raising children has a very large influence on the formation and development of a child's personality.

However, on the other hand, environmental factors, such as advances in information technology and globalization, which are growing rapidly today, greatly influence the values and norms that apply to individuals, families and society. This can result in various social problems as well as in a child's personality including, behavioral deviations such as acts of violence, theft, sexual harassment, brawls and others which ultimately cause children to be faced with a law (Krisna, 2018). It is said to be a social deviation because it disturbs the order of other people or society, or is a behavior that is not in accordance with the values of decency or decency (humanity), both from a moral (religious) point of view individually and in society. As a result, children who behave deviantly are often referred to as naughty children, or those who are in conflict with the law. Children in conflict with the law (ABH) include children in conflict with the law and children who are victims of crime.

According to data from the Directorate General of Corrections for June 2014, 2,060 children (1,891 boys, 169 girls) were detained in various detention institutions across Indonesia and are still in the judicial process. The number of child prisoners in Indonesia is 3,379 children (3,095 boys, 284 girls) who are already in the final trial process (judicial decision). This figure has increased compared to the population of child prisoners in 2011. The National Commission for Child Protection (NGO Komnas PA) reported that there were 1,851 complaints of children coming into contact with the law (theft, violence, rape, drugs, gambling and abuse). The definition of

children in the legal view is basically the same, and is formulated to provide the fairest decision for children. The definition of a child based on Law no. 23 of 2002 concerning Child Protection is every human being under 18 years of age, including children who are still in the womb. While the definition of children based on Law no. 39 of 1999 concerning human rights is every human being under the age of 18 and who is not married, including children who are still in the womb, if this is in his interest.

Children who commit acts of violating the law in this case are referred to as Children in Conflict with the Law (ABH) or in several other sources they are called Children in Trouble with the Law (ABH). Based on Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, children in conflict with the law, hereinafter referred to as children who are 12 years old but not yet 18 years old, are suspected of committing a crime. This definition is further clarified in Article 1 paragraph 2 that children in conflict with the law are children who are in conflict with the law, children who are victims of criminal acts, and children who are witnesses of criminal acts. Children in conflict with the law (ABH) are also defined as children who commit or are suspected of committing crimes and they are required to be held accountable before the law for their actions so that they must be involved in legal processes such as investigations, prosecutions, examinations, court hearings, and many of them are must serve a sentence in prison (Kusuma & Sutapa, 2020).

Judging from the background of ABH, in general, ABH are male and aged between 13 to 17 years have very low educational and economic status, while ABH education in general is junior high school graduates or some even do not graduate from elementary school. In fact, there are intrinsic and extrinsic motivations that can be learned to analyze crimes committed by a child with ABH, such as intelligence factors, namely age, gender, and the child's position in the family. Intelligence factors can influence children in considering good or bad behavior, while the age factor influences the mindset and moral understanding in the community where they live, and the position of children in the family will affect the child's psychology when committing a crime. Furthermore, what includes extrinsic motivation is household, education and school factors, as well as the association of children where they often socialize every day (Setiawan, 2018). Some of the factors mentioned above can actually cause children who initially behave well, when there are problems in the family, the school does not apply strict rules, wrong associations and deviates from societal norms, as well as the influence of the mass media which shows various bad scenes that can be emulated by children, can commit crimes so that children are forced to deal with the law and the justice system.

However, in fact the Indonesian state itself is in the process of passing Law No. 3 of 1997 concerning Juvenile Justice and Law No. 23 of 2002 concerning Child Protection. The juvenile court law in its articles regulates several principles that distinguish it from criminal trials for adults. The principles are as follows: 1) general limitations (article 1 point 1 in conjunction with article 4 paragraph (1) As for persons who may be tried in juvenile court proceedings, they are determined in a limitative manner, namely a minimum age of eight years and a maximum of eighteen years and that can be examined in juvenile court hearings are limited to cases involving naughty children.

According to Lefaan & Suryana, (2018) explains that children dealing with the law still need special protection, including obtaining protection and assistance from professionals such as social workers, this is as conveyed in the mandate of Law Number 35 of 2014 article 59A, that Special

Protection for children in legal conflict, it is carried out through: a) prompt handling, including treatment and/or physical, psychological and social rehabilitation, as well as prevention of diseases and other health problems; b) psychosocial assistance from the time of treatment to recovery; c) provision of social assistance for children who come from underprivileged families; and d) providing protection and assistance in every judicial process.

Based on data from the Ministry of Social Institutions, there are 6,572 children who need special protection (AMPK), of the total number of AMPK, there are 8,320 children in conflict with the law. This condition makes children who are in conflict with the law vulnerable to various social problems so that children are entitled to basic services (Mustofa, 2021). Meanwhile, according to Prasetyo (2020) protection for children who are in conflict with the law is the child's prerogative, where the role of law and restorative justice for children greatly influences the best interests of the child, namely through learning punishment and not punishment for revenge. In addition, there are many children in conflict with the law that lead to imprisonment, but in reality not all cases of children in conflict with the law must end in prison, this is because criminal cases committed by children in conflict with the law can still be tolerated by crimes such as theft, brawls, fights, and other things that legally carry out a sentence of under seven years.

Restorative justice as it is basically an approach to criminal law that contains a number of traditional values, this is based on two important indicators, namely the values that form the basis and the mechanisms offered. This is the basis for considering why the existence of restorative justice is reconsidered. The existence of this approach is perhaps as old as criminal law itself. Restorative justice is considered important because not all children who violate the law have a background in delinquency. However, many children who violate the law are caused by other social factors such as poverty, ignorance, imitating children to adults, and not fulfilling children's basic needs.

On the other hand, socio-cultural influences play a large role in the formation or conditioning of children's criminal behavior, where the behavior of children who are involved in criminal acts or commit violations of social and legal norms shows signs of lack or absence of conformity to social norms. Often children judge that crimes that they sometimes consider reasonable, in fact, often cause these children to commit crimes that violate the law. As a child who commits a violation or crime (in conflict with the law), often the rights of the child are not properly protected starting from the examination phase, the prosecution process, to the end of the trial process where these actions are commonly found in prosecuting adults.

As for delinquency or criminal behavior committed by children in a psychological perspective, it is considered as a child's failure to meet the expectations or social demands of the values and norms adopted by society. This can be caused by children who experience difficulties or obstacles in completing their developmental tasks, such as the inability to put confidence in themselves and in others, the fear of loving and forming intimate relationships, and low self-esteem. Then later the child's inability to admit and express his feelings such as anger, revenge which can eventually lead to things that are not desirable. If such problems are not handled properly, it will lead to failure in the child's adjustment both to society's expectations and to existing social norms, furthermore children can commit acts against the law and eventually become perpetrators of crimes (Rizky et al., 2019).

Said, (2018) stated that children are an inseparable part of the life of a society, children are social beings like adults. Children need other people to be able to help develop their abilities,

because children are born with all weaknesses so that without other people it is impossible for children to reach a normal level of humanity. Children have rights that are specifically different from adults because of their unstable physical and mental conditions. In many cases, children need special treatment and protection, especially against actions that could be detrimental to their development and that of society. Children need other parties such as family, society, government and the state to support the natural growth and development of children. Child welfare and protection is a serious issue because it is related to the survival of a society and the future social design of a country.

One of the serious and urgent issues that need attention is the handling of children in conflict with the law (ABH). The dimension of dealing with the law means that there are children's actions that are contrary to the legal provisions that apply and are valid in Indonesia, so that in this context it can be defined that children who have problems with the law are children who are not yet adults according to the law and commit acts actions that are contrary to applicable law and lawful. In general, children in conflict with the law are defined as children who are suspected, accused or found guilty of violating the provisions of the law or a child who is suspected of having committed or has been found to have committed a violation of the law. In the legal literature, ABH states that a child who is in conflict with the law is a child who has reached the age of twelve but has not yet reached the age of eighteen and is not yet married.

Children who commit criminal acts or children in conflict with the law (ABH) cannot be handled only through the eyes of the law which can end in court and prison consequences. However, it must also be seen from the surrounding environment that causes children to commit these criminal acts. Because basically children are still psychologically unstable and cannot think carefully about the consequences of their bad deeds. If a child is in trouble with the law, then based on the Child Protection Act, the police should still use the principles of restorative justice and discretion to deal with ABH properly and optimally. Court decisions in the form of imprisonment should also be set aside and give priority to Correctional Institutions to rehabilitate children. To optimize the enforcement of children's rights, a synergistic relationship between all relevant parties is also needed, including parents, the government, the police, social institutions and the community.

CONCLUSION

Children who are in conflict with the law according to the Regulation of the Minister of Social Affairs of the Republic of Indonesia number 08 of 2012 concerning guidelines for data collection and management of data on persons with social welfare problems and the potential and sources of social welfare are people who are twelve years old but have not reached the age of 18 and eighteen years, including children who suspected, charged, or convicted. The role of law and restorative justice in children has a very large influence on the best interests of the child. The complex problems of children in conflict with the law require a restorative justice approach through learning punishment and not punishment for revenge. Apart from that, there are also many children who are in conflict with the law and end up in jail. However, if we trace it in detail based on the causes of the appearance of children's behavior, we can understand that children in conflict with the law are actually victims of their psychosocial environment. The psychosocial environment starts from the family environment and their social environment outside the home. Family parenting style directly affects the personal qualities of a child. It is not easy to determine

the ideal parenting method because the economic, social and cultural conditions of each family are very diverse. Therefore, the behavior of children committing criminal acts is included in maladaptive behavior with the demands of social norms and environmental laws. The law on the juvenile justice system promotes restorative justice in the spirit of restoring a healthy relationship between a child's behavior and social norms. However, the main key is ideal parenting that can foster a child's personality with the quality of independence to make decisions and solve problems. Children with parenting styles that do not foster independence in making decisions and solving problems are one of the causes of maladaptive behavior which eventually leads to actions that may be related to the law.

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