



Criminal Law Review and Criminology of Felony Murder That Was Done by The Kid in Semarang City

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Abstract

In the last three years, cases of murder committed by children have occurred quite often for the category of crimes that are classified as serious, especially since the perpetrators are minors. The results showed that there were two factors causing the murders committed by children in the city of Semarang, namely internal factors. comes from the child and external factors which include family factors, economic factors and social factors. Cases of murder committed by children cannot be resolved through diversion because the penalty is more than 7 (seven) years, no victim has been asked for an apology and as a form of self-protection for the child as the perpetrator. For families in particular, parents should always be a good example and give more attention and affection to their children. The community is also expected to be more sensitive to the surrounding environment or the environment in which they live so that when an unwanted event occurs, let alone involving a child, they must immediately report it to the authorities. Law enforcers must be able to provide an appropriate and fair punishment considering that the perpetrator is a child who is physically and psychologically unstable and still has the right to reach a bright future.

Keywords: *Crime; Criminology; Murder; Children; Semarang*

Introduction

In general the sense of the law itself is a collection of rules of norms and penalties made for the purpose of regulating human conduct in order to maintain order, justice and prevent disorder. Hans kelsen himself meant law is rule (rule) as a system of rules (rules) of human behavior. Thus the law does not accumulate on one single reason (rule) but a set of rules (rules) of one force so that it can be understood asa system, the consequence being impossible to understand the law if one rule is just one.¹

¹Jimly Asshidiqie dan Ali Safa'at, Teori Hans Kelsen tentang hukum, (Jakarta: Sekjen dan Kepaniteraan MK-RI, 2006), hlm 13

As the Indonesian state of law and compliance also has its own rule of law on how he will manage his country in order to achieve its goal. At best the rule of law was established there must be an outright violation of a criminal offense that would not only harm material but also physical and not least risk life. A criminal act is prohibited by the law and is threatened with a criminal whoever breaks the ban.² The terms crime or criminal or criminal ACTS are widely defined and defined. Van hamel formulates delik (strafbaarfelt) it is as: "human behavior that is defined by law, against the law, that is punishable and minimally infallible.

It is also true that criminals do not separate from children's environment, but somehow they can commit criminal ACTS, regardless of the rules and norms found in Indonesian society, especially as Indonesia upholds moral and ethical values. The talk of children and its protection will never cease throughout the history of life, for the child is the rising generation of nations and development successors, the generation prepared as the subject of sustainable development and the future control of a country.³ Therefore, in order to realize intelligent and qualified children of the nation in addition to the role of nations, family, friends, and community environment, it is vital that the child grow up to be a morally upright person who can distinguish positive and negative actions.

As the age and technology grow, society is required to meet every conceivable need contrary to its economic background, from adults, children, to old age, regardless of the responsibility. Especially in Indonesia is not only the developing world and the growing number of technologies but also the growing number of crime in Indonesia from organized crime to violent crime that results in the loss of one's life like murder. Crime is a violation of the law, it's a Dutch term known as "rechterdelicten", that is, if it goes against justice, it's a criminal offense or not.⁴ Tak terkecuali anak-anak yang masih dalam tahapan untuk berkembang dan masih mencari jati diri, mereka kerap kali melakukan banyak hal mulai dari hal-hal baik hingghal-hal yang buruk dan merugikan orang lain bahkan dirinya sendiri, baik itu secara fisik maupun materiil. Karena anak juga manusia biasa yang bisa juga melakukan hal menyimpang dan berbagai kejahatan seperti halnya orang dewasa.

Today it is no surprise that children are also involved in criminal ACTS, the incidence of children faced with law is increasingly common throughout the region of Indonesia, especially large cities with a higher potential for criminal ACTS are no exception to the central Java capital of Semarang. According to the records of the case entered and registered in the Semarang county court, in the last three years the case of murders committed by an accused child occurred quite frequently in heavy criminal categories let alone minor perpetrators.

One example of a recent case in Semarang in 2018 is the murder of an online taxi driver by two teenagers and the first time it was a personal car and the victim's two mobile phones. The murder committed by these two underaged teens is between 16 and Hebrew (16) and 16) as planned, so the Hebrew Hebrew originally ordered an online taxi from the Lemahgempal and his companion, dirgbetween the goal of the Sambiroo. At the spot where the suspect is going he doesn't have enough money to pay until the suspect is justified in taking the money first on the Sandalwood Hills, where the two suspects act immediately. If one is in the back seat, it cuts the victim's throat with the help of his partner, which is torn between holding his body. The victim resisted even though his life was hopeless. After the two suspects had confirmed their death, the victim's body was disposed of instantly at the site of a Sandalwood Ridge. The case goes into the jurisdiction of Semarang county court with a ruling number 6/Pid.SusAnak/2018/PN. Smg dan 7/Pid.Sus-Anak/2018/PN.Smg.

² Moeljanto, *Perbuatan Pidana dan Pertanggung Jawaban Dalam Hukum Pidana*, (Jakarta, hlm.2)

³ Nashrina, *Perlindungan Hukum Pidana Bagi Anak di Indonesia*, Cetakan Ke-1, (Jakarta: Rajawali Pers,2011), hlm 1

⁴ Mahrus Ali, *Dasar-dasar Hukum Pidana*, (Jakarta:Sinar Grafika,2012), hlm 101.

For a number of homicides committed in a capital crime because of the loss of one's life and above all those involved are children under the care of a parent or under the care of a minor, it is fairly common in Indonesia and in the city of Semarang. Therefore the role of law enforcement is indispensable here, especially the members of the police force and the judges who participate in the examination and breaking of the case, because in the process its law enforcement must conform to preset standards or rules, and some details that need to be discerned by adults, given that the perpetrator is a child, that goes from a long line of psychic, attitude, and mindset to an adult. Special treatment and a lot of attention also significantly affect the course of inquiry and inquiry, and therefore rendering services according to established standards is essential. In the process of law enforcement starting with the DA's office, the police, and judges should follow and not go under the 2012 clause of the criminal justice system as a substitute to the 1997 1997 penal code that has been established in Indonesia to make children of criminals or persons against the law feel entitled to protection and provide optimal protection and confidence in the perpetrators that they are given the best protection until the end of the hearing process, The sentence was dismissed until the sentence was ended.

Child crimes are also said to be juvenile delinquency. According to article 1 article 2 of the 1997 child court act that is what a bad boy means:

- a. Kid who committed a crime
- b. Children who perform deeds pronounced are forbidden to children, either by legislation or by other laws that live and apply in the community

Juvenile delinquency is derived from the foreign term juvenile delinquency. Juvenile means young, children, youth, characteristics of youth, characteristic characteristics of the youth period, while delinquency means doing wrong, is ignored, which is then extended to mean evil, -a-social, criminal, breaking rules, usurers, vandals, delinquents, irrections, irrections, irrections, durjana, durprecepts, and so on.

Paul Moedikno provides formulation, which is the juvenile delinquency's understanding:

- 1) All the deeds of adults are crimes, to children are delinquency, so all actions which are prohibited by criminal law, such as stealing, mistreating, killing and so forth.
- 2) All the lapses of the norm of certain groups that create disorder in society, such as inappropriate dung pants, you can see fashion and so forth.
- 3) All actions that show the need for social protection, including homeless, homeless and whatnot.⁵

The evil perpetrated by young teenagers is at its core a product of the society's social upheaval that surrounds it. This boy's crimes this teenager is referred to as one of society's diseases or a social disease. Of the many crimes that exist, murder is a serious crime that robs a person of his right to life and which is strongly contrary to what the 1945 bill says: "everyone has the right to live and the right to preserve his life and life." The criminal killing of its people is carried out by adults because of a considerable amount of energy and complete mind, but today it is no longer valid, children in particular their teenage children feel free to take the lives of others to fulfill their own desires. The child who commits this crime of murder is usually not alone but is with other children or with his or her peers who participate in the killing.

Based on what's been described above, The crimes committed by the child are quite complex and are of current concern and must be done properly that are consistent or consistent with the established procedures because otherwise the consequences will threaten the next generation of Indonesians either the child perpetrators or other young people because they will carry out the goals of Indonesia and the rest of

⁵ Wagiati Soetedjo, Melani, Hukum Pidana Anak Edisi Revisi (Bandung; PT.Refika Aditama), hlm.234.

the country's struggle. Therefore it has become the current generation's duty. It provides the whole teaching of postif and learning that helps the generations of nations develop into future generations of an intelligent, qualified, and morally sound nation. Giving a similar opportunity should be given to a child as a perpetrator. Providing similar opportunities for optimum goals and services to children who commit felonies is one of the first efforts to realize national aspirations. For no matter how the process of inquiry and judicial procedure would proceed must be remembered that the real thing remains. Those who need companionship must understand well what parenthood is and how to treat it to avoid mental stress. And his rights as a child are protected.

Formulation of the Problem

1. What factors contribute to a crime of murder committed by a child in the town of Semarang?
2. Is the fore diversion mechanism applicable to child murder crimes?

Research Methods

The legal study used by researchers in writing this study was to use typology of empirical law research. As for the understanding of the empirical judicial law, that is, research being done on real circumstances or circumstances in society in order to know and find out the facts and data that are needed, After the data needed to collect the next step is to identify problems and go to a criminological and solution stage to understand the underlying issues of the criminology as to the underlying issues of the criminology Using this method the writer did research to collect data sourced from the subjects being studied. This study is essentially a method of discovering specifically the realities that are happening in society.

Results and Discussions

1. Factors Contribute to a Crime of Murder Committed by a Child in the Town of Semarang

Semarang was the central Java provincial capital with its many beauties and many privileges. From its fascinating cultural and language characteristics, the natural beauty of its eyes pandered to its cultural Tours that keep visiting tourists from forgetting the flavor. Not only did students from all over Indonesia come to the so-called city of spring rolls for their studies but so many of the highest-quality schools and colleges that you might call them are certainly the most sensible choice for Indonesian youth generation to learn. Unfortunately it did not release the city of Semarang from the threats of crime, and it is more unfortunate that criminals who commit crimes are children from the type of crimes that are light to severe as murder. The crimes of murder committed by a child in Semarang city remain fairly frequent for the past few years. Here are some factors for children in particular crimes committed murder and some examples of crimes committed by children in Semarang city:

According to studies by authors at polrestaurant bes Semarang in general, there are factors behind the child's background to commit criminal ACTS, especially those that commit murder crimes, as follows:⁶

⁶ Hanung P, Pembantu Penyidik Polrestabes Semarang, Wawancara Pribadi, Semarang, 29 Juli 2020, Pukul 11.01

a. Family Factor

It is undeniable that the family is the most important factor in a child's growth. For their own children the home is home, a place where a child can find love and affection from parents as well as siblings and where a child should be sighing. The relationship between parent and child is also an important factor in determining a child's character. Parents and happy home environment, supportive and supportive will create a wholesome and healthy personality for the child. In contrast, the unstable home environment, the lack of affection and attention given by a parent will create a child with the bad personality that causes the child to become naughty. Even more so when parents use abusive language and play hands with their children, the result is that children lose confidence in their parents and that this is the early stages of delinquency or criminal life.

b. Economic Factor

Apart from family factors as to whether there is good and bad growth in a child, economic factors are also critical elements in the growth of a child and social life. Children with good family economic conditions tend to do much easier from fulfilling their lifestyles to the opportunity to grow in education. On the other hand, a child whose family economic condition is deficient is most vulnerable to delinquency or criminal action because they feel a need for him to be met immediately but difficult to realize immediately because of the family's economic limitations. This motivated the criminal action from theft to unwillingness to take the lives of others just to suit the child's own wishes.

c. Social Factor

The children of both parents who lack attention and affection would prefer to seek pleasure and attention from the outside world to one of his or her circle of friendships or associations. A positive social environment will no doubt engender positive qualities as well as those of a child. But if the created social environment were negative, it would be more likely that children would be affected with negative traits, because some children would be committing criminal ACTS, following one another without any thought to what would happen, especially if the child also had economic problems in the family. The child would try to control the victim's goods and in the case of the child who committed the crime of murder after taking possession of the victim a child who felt afraid at first only threatened the victim but because the victim also made the defense of a child who had previously only threatened to commit a murder crime whether it was premeditated or not.

On data obtained from case studies as presented above, it could be concluded that the underlying factors in child murder are largely a factor of weak emotional control/self-control, the environmental and family economic factors. The weak/emotional control factor is a definite factor in the problem of children committing criminal ACTS, the age at which they are very young makes it difficult for children to discern acceptable conduct and unacceptable behavior, when so far they can easily be dragged into bad behavior even criminal behavior. Furthermore the lack of understanding to control the emotions or anger in children makes it not rare to hold a grudge and then express it by taking revenge in any way and ruling out the consequences. The social factor is one of the most important things a child grows.

In increasingly lax social situations, the children will then refrain from their families to acknowledge their perceived isolation and threatened existence. The children then entered a new family unit with a new, distorted subculture. Thus, the child is subjected to a high influence from a variety of peer pressure, all of which insist on forming bad behavior, and its product is that these children violate rules, social norms, and formal laws.

The family's economic factors, it cannot be denied that lack of economic income in a family is a pretty serious problem each year, with the cost of basic needs rising rapidly, especially for children in the

growing and learning process, and having many desires as much as playing certainly costs less. This results in a child's inability to satisfy his or her needs and desires because they cannot be obtained from his family. Even in the case of one, the child deliberately commits a heinous act of murder and confiscating the property of the victim on the grounds of paying for a school tuition that has been unpaid for three months. For that it is the primary duty of parents and their environment to give understanding that anything done in an improper manner ends up bad.

2. The Diversion Mechanism Could be Applied to Future Child Murder Crimes

A child is an integral part of human survival and the continuation of a nation and a nation. The child also has a strategic role firmly in the constitution of Indonesia stated that the state will ensure the rights of every child for its survival, growth and development and protection from all violence and discrimination. Therefore the child is entitled to every right that a country has promised without exception, whether it is education, health, to the protection of its soul. The same would be true of children in conflict with the law, of children who would have to be guaranteed protection, an absence from trial until assistance was completed. Because, after all, a child in conflict with the law has the same opportunity to become the successor of a qualified nation and country. The law no.11 2012 of the child's criminal justice system defines a child who is in conflict with the law as a child who is already 12 (twelve), but not 18 (eighteen) years of alleged criminal activity. Laws on the judicial system of children also have penalties for children who are convicted of criminal or criminal ACTS. The difference between the age limit for children can be criminal within the law of the child's judicial system advanced, 14 years old, so that children under 14 (fourteen) years could be convicted only of action, whereas 14 - year - old but less than 18 (eighteen) years could be convicted of criminal or action.

Under chapters (5) through chapters 14, section 29, chapters 42 and 52 verses (2) through the 2012 law (6) on the child's justice system, compulsory testing on the level of inquiry, prosecution and child custody in court using a restorative justice approach. The point of the "word endeavor" itself is that law enforcement, the son of investigator, prosecutor, and judge are required. To work on. The version process can be implemented. The obligation to seek a version here is starting with the investigation, prosecution and child inquiry on. Trial, conducted in conjunction with a felony threatened with a prison sentence under 7 (seven) years and is not a repeat of a crime.¹³⁰ While not required to have a legally protected process against children in conflict with the law that carries out misdemeanors of children who commit crimes above 7 (seven) years and children who repeat crimes should continue to exercise what should be required to satisfy the rights that children obtain.

The reduction in the restorative justice model condones the criminal abuse done by children by building understanding in local communities that the conduct of children in criminal ACTS should be understood as a juvenile delinquency resulting from adult overreaching or mistaking of children into adult life. Child crime should also be viewed as different as a violation of human and human relations so as to double the obligation of all parties or components of society to keep trying and make everything work out through all those who take the lead in seeking the best solution, both to the benefit of the victims and to the child as the perpetrator of the future. A version of the 2012 children's justice system law is regulated in section ii from article 6 to article 15, which in article 7 explains that at the level of inquiry, prosecution and child custody in a court requires that the process be kept in a version with a recorded version of the process can be carried out if a felony committed by the threat is no more than 7 (seven) years or less than 7 (years) and not a repeat of a criminal offense. In chapter 14 of the verse (1) the process of version can be carried out and carried out with the agreement that results directly from the responsible officer in each process of doing it from beginning to end, then in the verse (2) explains how the process is translated to the way the agreement is carried out. Thereafter, it is compulsory for public advisers to provide guidance and supervision of child criminals, and then it is in the verses (3) that set forth how the version is not performed within an established time limit, from public advisers the obligation to report it to responsible

officials for prompt follow-up. The last arrangement in the verse (4) explains that responsible officials must follow up on the report for the longest time 7 (seven) days out of the first day of the report received. If the child is indeed convicted and the judge has sentenced the child to prison, the step after which is that child welfare officers can immediately deliver a policy on the child so that the child can be referred to another social institution or alternative sanction would certainly be more useful to the child's future.

According to the authors themselves if the murder crimes committed by children were seen from restorative justice exposure. Because of some factors, the first is that the suspects have never been ensnared by criminal and coercive ACTS under no more than five (5) years. This would then be unconserved to the perpetrators of murder as a threat to fifteen (15) years or would have been the difference if the criminal murder committed by a child was reduced to half that of seven and a half (7.5) years. In the second quarter of 2007, the company's net profit in the first half of 2007 fell to rp38.3 trillion from rp37.9 trillion in the same period last year. It also justifies its restorative justice approach when the victim and his family respond positively to the desire for forgiveness and peace. Meanwhile based on interviews the authors conducted, there wasn't a single family of victims who wanted to be solved peacefully or familiaally without going through a trial. Therefore, it is not appropriate that in future restorative justice applies to child murder cases.

Furthermore, criminal law makes idling itself an essential part, as it culminates in the entire process for accountable to someone who has committed a crime. Criminal law without idleness is like declaring a person guilty with no consequences. The conception of guilt therefore has significant impact on the inducing of criminal penalties and the process of executing them. Even more so a crime committed was an act of extreme inhumanity, where it resulted in loss of one's life, depriving one of the right to life and inflicting injuries and trauma on the victim's family. Therefore, in the case of a felony murder there is no other choice but to follow the established rule of celibacy, without exception, not to look at the status of social ust and age of a person and for the murder committed by a child to this point can not be done by the dictates of passage but only a reduction from half the punishment of an adult, It's perfectly natural given that the goal of committing a felony is the life of a person who can't be replaced by anything. It is hoped that the goals of idling can also prevent new crimes, as a means of self-introduction, a lasting effect on the perpetrators, that social conditions can also become better and safer and will later become better citizens, useful to nusa nation especially children regardless of status from criminal actions they still have the right to protect and the right to achieve their ideals.

Conclusion

Based on the research and discussion that the author has already done, the authors draw the following 2 (two) conclusions

1. Among the factors that induce a child to commit criminal murder are internal and external factors, internal or internal factors in the child himself is the inability to control emotions, a child who has the ability to control emotions well will be better able to understand his own situation and thus easily solve the problem at hand. But children who are not good at controlling their emotions tend to be temperamental, aggressive and difficult to socialize, leaving them prone to criminal behavior. An ekstern oran external factor that comes from outside a child, may be a supportive family environment, a lack of affection and attention given by the parent create a child with a bad personality that causes the child to misbehave, The economic factor of children whose families are undermined is particularly vulnerable to delinquency or criminal action because they feel a need for their own immediate but difficult to reform because of the family's own economic limitations.

2. The application of a diversion of a felony murder committed by a child is inappropriate under article 7 of the child justice system it is clear that a self-released system can be implemented if a criminal anacaman is committed under 7 (seven) years and not a repeat of a crime. Whereas under the rule of 338 criminal law, murder cases under which 15 (fifteen) years of child abuse are threatened in adults. For that the case of murder itself is not applicable now or in the future, for the punishment of the murder itself is more than 7 (seven) years, but there is extenuating to the child murder case which is a long time allotted if adults get a criminal threat 15 (fifteen) then for the child to be threatened with criminal half of the adult's penal threat of 7.5 years. Of course, the child has not been able to implement the concept of a different version of a murder that has been described above except for the child's more than 7 (seven) years, no victims have been asked to apologize for the deceased as a form of self-protection to the perpetrator.

Based on the conclusions reached, the writer gives this advice: To families in particular, A parent who is always a good example and gives more attention and affection to the child when he or she reaches the age of a teenager who is at risk for identity and is in desperate need of guidance and instilling a value of religion so that he can avoid undesirable behavior, let alone crime and society be expected to be more sensitive to his surroundings or his home environment So that when an unwanted event involving a child should immediately report to the proper authorities, and the public would also have the right to correct a child when a crime was imminent.

References

- Andi Hamzah, *Asas-Asas Hukum Pidana*, Cetakan Keempat, (Jakarta: P.T.Rienka Cipta,2010).
- Hanung P, Pembantu Penyidik Polrestabes Semarang, Wawancara Pribadi, Semarang, (29 Juli 2020), Pukul 11.01.
- Jimly Asshidiqie dan Ali Safa'at, *Teori Hans Kelsen tentang hukum*, (Jakarta: Sekjen dan Kepaniteraan MK-RI, 2006).
- Kartini kartono, *Patologi Sosial 2 : Kenakalan Remaja*,(Jakarta:Rajawali Pers,1986).
- Mahrus Ali, *Dasar-dasar Hukum Pidana*, (Jakarta:Sinar Grafika,2012).
- Moeljanto, *Perbuatan Pidana dan Pertanggung Jawaban Dalam Hukum Pidana*, (Jakarta, hlm.2).
- Nashrina, *Perlindungan Hukum Pidana Bagi Anak di Indonesia*, Cetakan Ke-1, (Jakarta: Rajawali Pers,2011).
- Wagiati Soetedjo, Melani, *Hukum Pidana Anak Edisi Revisi* (Bandung; PT.Refika Aditama).
- [http://download.garuda.ristekdikti.go.id/article.php?article517695&val10604&titlePenanganan%20Anak%20yang%20Berkonflik%20Dengan%20HukumDiakses terakhir tanggal \(12 Juli 2021\).](http://download.garuda.ristekdikti.go.id/article.php?article517695&val10604&titlePenanganan%20Anak%20yang%20Berkonflik%20Dengan%20HukumDiakses%20terakhir%20tanggal%20(12%20Juli%202021).)
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