

Juvenile Delinquency in Semarang City: Aspects of Protection and Law Enforcement in Socio-Legal Approach



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ABSTRACT. Juvenile delinquency includes all behaviors that deviate from the norms in society, status violations, and violations of criminal law. Violations of status such as running away from home, skipping school, smoking, drinking, illegal racing, and so on. Violations of this status are usually not recorded in quantity because they are not legal violations. While the so-called deviant behavior against the norm includes premarital sex among teenagers, abortion, and so on. This study aims to analyze the phenomenon of juvenile delinquency from a sociological juridical perspective in the city of Semarang. The method used in this study is a mixed method between empirical and normative studies. This method is used to answer substantially the juvenile delinquency case within the legal framework in the city of Semarang.

KEYWORDS. Juvenile Delinquency, Socio-Legal Approach, Social Pathology, Criminology, Justice and Crime

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Introduction

Juvenile Delinquency or known as juvenile delinquency is a form of delinquency carried out by adolescents or it can be said that juvenile delinquency is one of the symptoms of social diseases (pathologies) one of which is caused by the environment in which it grows so that it forms deviant behavior. According to Cavan, Juvenile Delinquency is a form of juvenile delinquency that is formed as a result of the disorder experienced by adolescents in an effort to fulfill some of the expectations and obligations that the social environment expects of him.¹ WHO (World Health Organization) as the World Health Organization categorizes adolescents based on their vulnerable age, namely someone who is vulnerable aged 10-19 years.² Not only that, but the Lancet Journal also categorizes adolescents

¹ Lilis Karlina, "Fenomena Terjadinya Kenakalan Remaja," *Edukasi Nonformal* 1, No. 2 (2020): 153, <https://ummaspul.e-journal.id/JENFOL/article/view/434>.

² *Ibid.*

based on age vulnerability, namely, those categorized as teenagers are each individual who is at the age of 10-24 years.³

Adolescence is the transitional period of a child who begins to experience mental and sexual maturation, but the maturation is still in a rudimentary stage of the process, so it often intersects with emotions that then encourage teenagers to do unwanted things including a crime. Crime itself linguistically can be interpreted as an evil deed or evil act, while juridically a crime can be interpreted as an act or actions that violate laws, rules and also norms approved by society.⁴

The issue of crime is growing rapidly as the times progress and evolve in a more complex direction. In this case, adolescents become one of the vulnerable groups for all forms of unlawful acts because adolescence is the age at which a person is incessantly trying to find their identity and get recognition from society. This drive to find identity and recognition is often overdone, they often do *delinquent* actions as an effort to prove their identity and highlight courage in themselves which is certainly contrary to the rules, values and norms that exist and live in society.

Nowadays, juvenile delinquency is increasingly undergoing a lot of changes. Originally, the delinquency was only limited to ordinary delinquency that did not cause legal consequences in it, caused by the shifting times its form has now begun to undergo a lot of changes, one of which is that its actions continuously lead to forms of criminal acts that are juridically contrary to the rules, values and norms that live and develop in society.

There are several forms of juvenile delinquency that are most often carried out including, the use of narcotics and illegal drugs, alcohol, brawling, theft, murder, *free sex* and many more. The Central Statistics Agency (BPS) noted that from 2014 to 2015 there was an increase in the number of juvenile delinquencies in Indonesia, originally in 2014 the juvenile delinquency rate was at 7007 cases and in the following year there was an increase in the juvenile delinquency rate, namely 755 cases or in other words in 2015 the number of cases climbed 7,762 cases.⁵

³ Asni Harismi, "Batasan Usia Remaja Ternyata Ada dalam Rentang Ini," SehatQ Kementerian Kesehatan Republik Indonesia, 2020, <https://www.sehatq.com/artikel/batasan-usia-remaja-dan-perubahannya-secara-fisik-dan-mental>.

⁴ M Ali Zaidan, *Kebijakan Kriminal* (Jakarta: Sinar Grafika, 2016).

⁵ Kintoko Rochadi, "Studi Kasus Perilaku Beresiko Remaja Kota Medan (Pola Makan , Aktivitas Fisik , Konsumsi Alkohol Dan Narkoba Serta Perilaku Seksual)," *Jurnal Pembangunan Perkotaan* 7, No. 1 (2019): 8, <http://ejpp.balitbang.pemkomedan.go.id/index.php/JPP/article/view/62/35>.

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In the Semarang area, juvenile delinquency often occurs which will then lead to criminal acts. Quoted on the *Semarangpost.com* page, in 2018 there were several high school teenagers in West Semarang arrested while driving recklessly after being harassed by the police the teenagers had previously held a *ciu* type *miras* party and they were arrested drunk while riding a motorcycle. In this case, the actions taken by the West Semarang High School teenager not only endangered himself personally but endangered the safety of other motorists around him.⁶

Not only that, in the same year, there was a murder case committed by a 16-year-old teenager in the Sunan Kuning area, West Semarang. The motive for the murder relates to a form of *juvenile* crime where the teen is disappointed with the sexual services provided by the victim, the 16-year-old perpetrator then strangles and smothers the victim with a pillow. Because of this, the perpetrator was then charged with Article 340 of the Criminal Code juncto 365 of the Criminal Code concerning premeditated murder accompanied by theft and also violence with the threat of a maximum sentence of life.⁷

In 2020, the Semarang Pedurungan sector police managed to arrest 14 of the 25 teenagers who abused local residents, which later resulted in two wounds and shackling. The teenager used a sharp weapon in his action, when he was arrested the police managed to seize eight *celurit*-type sharp weapons and also glass bottles used to attack nearby residents. These actions are certainly based on several causes or factors from the social and cultural places where children and adolescents grow up and shape their personalities. Be it internal factors or external factors.⁸

Based on the cases above, Irma Gustiana A, M. Psi, as a child and adolescent psychologist said that there are factors that encourage delinquency in children, including lack of parental and family affection, an unhealthy living environment that affects character development, the desire or desire of a teenager to be recognized by his peers. In addition, there are also research results from Mulia Astuti where he explained that the factors that encourage children to face the law are opportunities, economic and environmental

⁶ Imam Yuda, "Kenakalan Remaja : Mabuk Ciu, Pelajar SMA di Semarang Tantang Polisi," *Solopos.Com*, 2018, <https://www.solopos.com/kenakalan-remaja-mabuk-ciu-pelajar-sma-di-semarang-tantang-polisi-888862>.

⁷ Wisnu Wardhana, "Ini Motif Remaja Yang Bunuh Wanita Muda di Sunan Kuning Semarang," *INewsJateng.Id*, 2018, <https://jateng.inews.id/berita/ini-motif-remaja-yang-bunuh-wanita-muda-di-sunan-kuning-semarang>.

⁸ Karlina, "Fenomena Terjadinya Kenakalan Remaja."

factors. As a sample Astuti observed six families whose children had problems with the law and five of them were caused by a lack of family affection. According to Rowelyn Acdoc, she also argues that the home is the main issue for the attitude of children who face the law, and the environment is an additional or supporting factor.⁹

Responding to the issue of juvenile delinquency which then shifted to the form of unlawful acts, as a preventive effort the government and policymakers made, established and passed the Law on Juvenile Justice in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System while still considering the mandate of the Indonesian constitution contained in Article 28 B paragraph 2 which can be equally interpreted that children have the right to their lives and are entitled to obtaining protection from discrimination. Based on Article 1 paragraph 3 of the SPPA Law, children who are in conflict with the law are children who are 12 years old but not yet 18 years old.

The United Nations Rules for The Protection of Juveniles Deprived of Their Liberty also emphasized that the justice system for children must prioritize the rights and safety of children both in developing physical and mental health of children. This is due to several considerations that the punishment of children will hinder the growth of children and society will find it difficult to accept their existence in their midst without stigma and negative views towards them. This juvenile justice process is *Ultimum Remedium* so it must still be subject to the rules in Article 3 of the SPPA Law¹⁰, where every child in the criminal justice process has the right not to be sentenced to death or life and not to be arrested or in prison except as a last resort and within a reasonable time. Based on this, in the criminal conviction of a child or teenager is 1/2 (half) of the maximum sentence of criminal threat given to an adult.¹¹

In the juvenile justice system, the term diversion is also known, which is a transition of the juvenile justice system that is inseparable from mediation, dialogue and also deliberation to achieve restorative justice. This process considers the principle of the best protection for children so that a

⁹ Widya Primastika, "Penyebab Kriminalitas Anak: Kurang Kasih Sayang & Pengakuan Sosial," 2018, <https://tirto.id/penyebab-kriminalitas-anak-kurang-kasih-sayang-pengakuan-sosial-cP3F>.

¹⁰ Muhammad Ansori Lubis, "Perlindungan Hukum Terhadap Anak Nakal Berdasarkan Uu Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak" *Jurnal Retentum* 1, no. 1 (2019): 15–32.

¹¹ Presiden Republik Indonesia, "Pelaksanaan Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak," *Lex Et Societatis*, No. 153 (2012): 39.

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non-litigation or settlement mechanism is needed that is carried out outside the judicial mechanism.¹²

The essence of the diversion process itself is an effort to solve a problem without a judicial process which uses traditions in the form of deliberation and consensus as a tangible form of implementing laws that have long existed and developed in society with an axis on restorative justice that focuses on the process of healing, dialogue, moral learning, responsibility, and also forgiveness. If the judge does not reach an agreement, the judge has the right to continue the examination of the case in accordance with the Juvenile Criminal Procedure Law. Based on this background, the author is interested in taking a research topic entitled "*Sociological Juridical Analysis of Juvenile Delinquency in Semarang City: Aspects of Protection and Law Enforcement*".

Methods

This legal research is empirical juridical legal research using a *conceptual* approach and an *empirical approach*, where in this study looks at various theories related to juvenile *delinquency* in Semarang City. *The conceptual approach* is used to see various views and doctrines that live and apply in the people of Semarang City in seeing the implementation of the fulfillment of children's rights in law enforcement for juvenile delinquency cases in Semarang City. *The Empirical Approach* will look at the development of cases directly and their law enforcement from time to time, along with various implementations of children's rights in the legal process for juvenile delinquency in Semarang City and factors influencing the emergence of various juvenile delinquency phenomena in Semarang City. This research is included in empirical juridical law research, where in this study the study of laws and regulations will be analyzed, observed, documented, and seen directly in the field, in the people of Semarang City.

Juridical Implications in Juvenile Delinquency

As we all know, Juvenile Delinquency is a form of violation of values, norms and rules that live, develop and are embraced by society where the

¹² Super User, "Diversi," *Pengadilan Negeri Bantul*, 2020, https://www.pn-bantul.go.id/index.php?option=com_content&view=article&id=242&Itemid=473.

perpetrator is a child who is in the transition period to adulthood. This phenomenon is inseparable from the factors that influence it, namely:

a. External Factors

1) Family

The family being the smallest unit closest to the child, harmony and peace in it can also affect the child's development. On the contrary, a messy and disharmonious family will also play a role in shaping the personality of children who are in conflict with the law, both economically and in the lack of parental attention and affection. Because the family has a function as *self-control* over the growth and development of children's attitudes and behaviors.¹³

2) Friends or Neighbourhood

In adolescence, children will more often hang out with their peers in the community. Peers with deviant behavior have a strong correlation, because if a child or teenager is used to living and dealing with bad situations and conditions, it will influence the child or teenager to participate in deviant acts. In addition, an environment that is not sterile from criminality also encourages children to be affected by unlawful acts.¹⁴

b. Internal Factors

1) Weak Self-Control

In the transitional period of adolescence, it is difficult to distinguish which behaviors are acceptable and also unacceptable to society. Although it can be distinguished, children or adolescents have difficulty in mastering control over themselves in order to be able to act and also behave in accordance with the norms that develop in society.¹⁵

2) Identity Crisis

¹³ Dadan Sumara, Sahadi Humaedi, and Meilanny Budiarti Santoso, "Kenakalan Remaja dan Penanganannya," *Prosiding Penelitian dan Pengabdian Kepada Masyarakat* 4, No. 2 (2017): 347–48, doi:10.24198/jppm.v4i2.14393.

¹⁴ Siti Fatimah and Muhammad Towil Umuri, "Faktor-Faktor Penyebab Kenakalan Remaja Di Desa Kemadang Kecamatan Tanjungsari Kabupaten Gunungkidul," *Jurnal Citizenship: Media Publikasi Pendidikan Pancasila Dan Kewarganegaraan* 4, No. 1 (2014): 88, <http://journal.uad.ac.id/index.php/Citizenship/article/view/6284>.

¹⁵ Iga Serpianing Aroma and Dewi Retno Sumara, "Hubungan Antara Tingkat Kontrol Diri Dengan Kecenderungan Perilaku Kenakalan Remaja," *Jurnal Psikologi Pendidikan Dan Perkembangan* 01, No. 02 (2012): 4, journal.unair.ac.id/filerPDF/110810241_ringkasan.pdf.

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In adolescence, there will be sociological and biological changes in children that encourage the occurrence of two patterns of integration which will form consistency in their lives and will begin to form identity and roles in society. This form of juvenile delinquency is born as a result of the child failing to achieve a second integration in him.

In the transitional period of adolescence, it is possible to develop a crisis characterized by deviant actions or behaviors that over time deviant behavior will disrupt order and cause social problems in society. The issue of juvenile delinquency is one of the problems that is also faced by all countries in the world, both developed and developing countries. In Indonesia itself, the problem of juvenile delinquency does not only occur in big cities, so this problem can already be categorized as a national problem that should be addressed and corrected.

Like the murder case accompanied by theft committed by a 16-year-old child that occurred in the city of Semarang which was motivated by disappointment over the sexual services provided by the victim. Because of his actions, he was sentenced to Article 340 of the Criminal Code jo 365 of the Criminal Code on Premeditated Murder accompanied by theft and violence with a maximum sentence of life. However, the defendant was granted leniency on the grounds that it was in order to preserve the future of the child.¹⁶

From this case, there are two legal consequences that arise, namely, legal consequences in the form of criminal sanctions and social sanctions. Based on the results of the judge's ruling, the child was sentenced to 10 years in prison, this sentence was the result of a killing act aimed at deterring and retaliation for what he had done. But not only that, but the teenager will also get social sanctions and a bad stamp from society for the irregularities and crimes he committed.

Not only that, but there are also quite different problems, recently a video went viral at sahur time that showed a group of armed teenagers in Semarang City vandalizing, tearing, and destroying a number of residents' belongings. From the existing CCTV footage, it is estimated that their age is in the range of 14-18 years. There is no criminal sanction, but only a mild reprimand made by Bhabinkamtibmas not to repeat his deeds again.

¹⁶ Angling Adhitya Purbaya, "ABG Yang Bunuh Perempuan Di Resos Semarang Divonis 10 Tahun Bui," *News.Detik.Com*, 2018, <https://news.detik.com/berita-jawa-tengah/d-4259421/abg-yang-bunuh-perempuan-di-resos-semarang-divonis-10-tahun-bui>.

However, these steps are not a deterrent effect for them because juvenile delinquency, especially in Semarang City, is increasing every year. As a result, it will not only cause material losses but also cause unrest in the community and there will even be the possibility of casualties. Therefore, the government is required to uphold the formulation of protection as an effort to uphold justice related to the issue of juvenile delinquency through the SPPA Law. In its own implementation, community participation is also needed as a preventive measure by building a peaceful and clean-living environment so that later it can encourage good growth and development for children and adolescents in managing themselves and emotions.

Juvenile Delinquency: Mechanisms and the Impact

In an effort to answer the phenomenon of juvenile delinquency in the city of Semarang, the relevant law enforcement umbrella is the implementation of the provisions contained in Law Number 3 of 1977 concerning Children's Courts which was later amended by Law Number 11 concerning the Juvenile Criminal Justice System (SPPA Law). Intersecting with this, juvenile delinquency committed by a child or juvenile may be legally adjudicable through criminal procedure justice mechanisms. However, in carrying out criminal proceedings, children have a specificity which will distinguish from the mechanism of criminal proceedings applied to adults. The purpose of this specificity is based on the government's consideration of the child's psychological and can be detrimental to a child's mental development.¹⁷

This can be seen from the special treatment at the stage of detention, examination, and also investigation. The restraint of children facing the law must be distinguished or separated from adults, the purpose is to prevent the child from negative things or influences from outside. Child detention centers or laymen call it "*child prison*" in the SPPA Law referred to as the Special Child Development Institute (LPKA), the mechanism to be achieved first through juvenile or juvenile justice is the rapid justice system. The substantial goal to be achieved by having a speedy judicial process is to achieve *Restorative Justice* and Diversion as a form of transition from the existence of a judicial process that allows children to be difficult to accept in society.¹⁸

¹⁷ Dian Ety Mayasari, "Perlindungan Hak Anak Kategori Juvenile Delinquency," *Kanun Jurnal Ilmu Hukum* 20, No. 3 (2018): 389, doi:10.24815/kanun.v20i3.11837.

¹⁸ Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 11 Tahun 2012 Tentang Sistem Peradilan Anak," 2012.

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Diversion can be interpreted as an alternative solution so that the child is not stigmatized by the existence of a judicial process where the main principle is more towards non-penal shorthand so that the child or teenager has the ability to correct all his mistakes.¹⁹

However, if the act cannot be tolerated, criminal punishment as the last remedy (*ultimum remedium*) can be given. According to the provisions in Article 32 paragraph (2) this restraint can only be made to a child who is 14 years old with suspicion of committing a criminal offence that carries a threat of seven years or more. His criminal conviction is at most 1/2 of the maximum adult sentence. In the case of examination, a child or juvenile who violates the law must be separated from an adult. Not only that, in the case of investigation, but the party in charge of also conducting an examination and correcting all forms of information of suspects who are underage will not wear uniforms and will make it mandatory through a good approach.

Regarding the criminal proceedings against juvenile delinquency in Semarang City itself can be started with a report or complaint from the community regarding child delinquency to the authorities in this case it is the police either at the level of the Sector Police (Polsek), Resort Police (Polres) or the Semarang Big City Regional Police (Polwiltabes). After the complaint, the authorities will send the file to the Semarang District Attorney's Office if the file is declared complete, it will be directed directly to the court hearing by the prosecutor as the public prosecutor.

Juvenile Delinquency: Theories and Practices

As an Indonesian legal state prepares a specific legal formulation, the regulation is contained in Law Number 35 of 2014 concerning Child Protection and is also contained in the SPPA Law. Important formulations that are regulated in it include using the Restorative Justice approach method through Diversion. Restorative Justice itself is a legal approach that prioritizes the settlement of cases outside the court which in its settlement involves the korban, the victim's family, the perpetrator, the perpetrator's family, the community and parties who have a direct correlation with the criminal act committed in order to reach an amicable settlement in a non-litigation manner.²⁰

¹⁹ Mayasari, "Perlindungan Hak Anak Kategori Juvenile Delinquency."

²⁰ Fiska Ananda, "Penerapan Diversi Sebagai Upaya Perlindungan Hukum Terhadap Anak Pelaku Tindak Pidana," *Jurnal Daulat Hukum* 1, No. 1 (2018): 78, doi:10.30659/jdh.v1i1.2566.

Just like what has been explained before that the SPPA Law essentially seeks to uphold the concept of speedy justice in order to achieve *restorative* justice and diversion. Both concepts are intended as one of the legal protection efforts for children or adolescents who commit unlawful acts. The concept basically existed before the 1960s which was marked by the existence of a *children's court*. Over time, this concept began to be followed by several countries in the world such as Australia and the state of Queensland. The concept of Diversion itself originated from a report on juvenile justice presented by the President of Australia in America in 1960.

In its own implementation, diversion is intended as a mechanism to avoid children from being exposed to negative impacts that will affect the psychic and their development. This concept is basically intended as protection so that children or adolescents can avoid prison sanctions that will make it difficult for them to be accepted in society in the future. This will gradually affect the child's life development pattern and the child will be labeled as a "bad person" which will also have an impact on mental health and the development of his mind in the future.²¹

The main principle of diversion itself is more towards actions or deeds whose nature is persuasive or nonpenal by giving an opportunity to the child or teenager to improve himself. The objectives to be achieved from the existence of diversion other than avoiding children in criminal proceedings and detention are:²²²³

- 1) Prevent the labeling of children as "criminals" from the social environment of their society.
- 2) As a form of responsibility for children so as not to repeat their actions in the future
- 3) Avoiding children being exposed to and indoctrinated with the negatives of litigation.
- 4) Achieving peace between victims and children facing the law

As a non-litigation legal mechanism that aims as legal protection, in its implementation the government has the authority to carry out diversion as an

²¹ Liza Agnesta Krisna, *Hukum Perlindungan Anak: Panduan Memahami Anak Yang Berkonflik Dengan Hukum* (Yogyakarta: Deepublish, 2018).

²² Wiwik Afifah, "Pertanggungjawaban Pidana Anak Konflik Hukum," *DiH: Jurnal Ilmu Hukum* 10, No. 19 (2014): 59, doi:10.30996/dih.v10i19.283.

²³ Azwad Rachmat Hambali, "Penerapan Diversi Terhadap Anak Yang Berhadapan Dengan Hukum Dalam Sistem Peradilan Pidana," *Jurnal Ilmiah Kebijakan Hukum* 13, No. 1 (2019): 20–26, doi:10.30641/kebijakan.2019.v13.15-30.

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effort to resolve legal cases of *juvenile delinquency (juvenile delinquency)* based on the legal basis contained in several laws, namely:²⁴

1. Law of the Republic of Indonesia Number 2 of 2002 concerning the Police of the Republic of Indonesia.
2. Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection.
3. Law of the Republic of Indonesia Number 3 of 1997 concerning Children's Courts.
4. Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Justice System.
5. TR Kabareskrim No. 1124/XI/2006 concerning Guidelines for the Implementation of Diversion for the Police

The categories or criteria for criminal acts that can be pursued through diversion include:

- 1) Criminal acts whose threat is within a period of 1 (one) priority with sanctions above 1 (one) to 5 (five years) which can be considered as well as all cases of theft except those causing loss of body and soul.
- 2) The younger the age of the perpetrator, the urgency of diversion will be emphasized.
- 3) There are factors from outside the child that encourage the occurrence of criminal acts, so urgency is also needed.
- 4) When the consequence is not a person's body or life.²⁵
- 5) The level of public unrest
- 6) On the basis of the consent of the victim and the victim's family

These efforts are in line with the reading of Article 64 of the Child Protection Law in which children must be exempted from all forms of torture, punishment, or other cruel, inhuman and degrading treatment. Not only that, as much as possible in its completion avoid all forms of arrest, detention, imprisonment unless otherwise imposed or as a final step that can be taken.

²⁴ Mahir Sikki Z.A, "Sekilas Tentang Sistem Peradilan Pidana Anak," *Mahkamah Agung RI Pengadilan Negeri Palopo Kelas I B*, n.d., <https://www.pn-palopo.go.id/index.php/berita/artikel/363-sekilas-tentang-sistem-peradilan-pidana-anak>.

²⁵ Republik Indonesia, "UU Nomor 35 Tahun 2014 Tentang Perlindungan Anak".

Conclusion

Juvenile Delinquency is a delinquency committed by adolescents with and considered to undermine the values, norms, that live and develop in society. This action is caused by factors, namely internal and external factors. The SPPA Law is the legal basis for juvenile delinquency. In the stage of detention, examination, and investigation there is special treatment of children, this is intended to protect the physical and psychological growth of children in society. Justice conducted by a child or juvenile can be carried out by a speedy justice system through Restorative Justice and Diversion as long as the action is carried out in accordance with the requirements set forth in the Act. Because this act of juvenile delinquency will not only affect the child personally but will also affect the social life of the community and will cause legal and social consequences with this juvenile delinquency.

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