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Research Article

The Perpetrators of the Theft of Minors at the Child Social Rehabilitation Center

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Abstract: The development of the world in the recent era of globalization shows a very rapid development where can be felt various positive impacts such as the progress of science and technology. But in addition to the positive impacts, there are also negative impacts that can be felt, one of which is the rise of crime both in terms of quantity and quality. The crime does not only involve adults, but also children. Children as part of the younger generation who are potentials and successors of the ideals and struggles of the nation which in fact have a strategic role and special characteristics and traits, require guidance and protection in order to ensure physical, psychological, and sociological growth and development in a balanced manner. Children grow by analyzing the condition of the surrounding environment and absorbing what they see and feel. Crime cases involving children as perpetrators carry their own phenomena. One of the most common crimes committed by children is theft, with various motives and modus operandi. This observation was conducted to determine the impact of crimes involving children as perpetrators, what factors drive the child to commit these crimes, as well as how the attitude of the surrounding community.

Keywords: Theft; Minor; Social Rehabilitation, Perpetrator

Introduction

Crime is a form of deviant behavior that is always present and inherent in society. Deviant behavior is a real threat or threat to the social norms that underlie life or social order so that it can create individual tensions and social tensions as well as a real or potential threat to the establishment of social order. Apart from humanitarian problems, crime is also a social problem, and it is not only a problem for certain societies,

but also a problem faced by all people in the world.

The crime of theft is a crime that is very common in society and is a crime that can be said to be the most troubling for the community. It is stated in Article 362 of the Criminal Code that: “*Whoever takes something, wholly or partly belonging to another person, with the intention of illegally possessing it, is punished for theft, with a maximum imprisonment of five years or a maximum fine of nine hundred rupiahs*”. Theft has two elements, namely an

objective element and a subjective element. The objective elements include: (a) the act of taking, (b) the object is an object, and (c) the state element which accompanies / is attached to the object, namely the object is partly or wholly owned by another person. While the subjective elements include: (a) the existence of intent, (b) which is intended to have.

The cases of theft that have occurred in recent times have increasingly made people nervous because the method is carried out also continues to develop. Initially, theft was carried out in conventional ways such as destroying doors, windows, jumping over the fence to the roof of the house, but in its development, theft was carried out openly even by more than one person, and no longer in a quiet place but in the crowd did not escape being the target of theft. Judging from the *modus operandi* of the crime of theft, there has been a development, previously it was mostly done at night, now it has increased to daytime. The equipment used has also evolved from sharp weapons, means of transportation and simple communication, nowadays it has turned into firearms, using means of transportation, and sophisticated means of communication, chemicals, and cooperation with which it is precisely the obligation to secure the goods that are targeted. The actions carried out by the perpetrators also did not hesitate to injure and even resulted in the victim's death.

The crime of theft is not only committed by adults, but children who are categorized as underage by law can also be the perpetrators. Recently, the phenomenon that occurs in society shows that criminal acts committed by children have increased from time to time, as is often reported in both print and electronic media about various events where the perpetrators are

children. The deviation of illegal behavior by children is caused by various factors, for example the negative impact of the rapid development of development, the flow of globalization in the field of communication and information, advances in science and technology, and changes in lifestyle have brought about fundamental social changes in people's lives so that they will greatly affect values and behavior of children. In addition, children who lack or do not receive guidance on affection, guidance in developing attitudes and behaviors, adjustment and supervision from parents, guardians or foster parents will cause children to be easily drawn to unhealthy associations, so that it will harm their personal development. In fact, this can open up opportunities for children to commit criminal acts.

The crime of theft committed by children is felt to be very disturbing to people's lives. Because people's lives have become restless, they feel insecure and comfortable, and even become a threat to their businesses. Therefore, it is necessary to pay attention to efforts to overcome and handle it, especially in the field of criminal law and its procedural law. Even though children are part of the younger generation who are the successors of the ideals of the nation's struggle and as one of the human resources for national development, in reality, there are often deviations in behavior or actions among children, even they often behave or commit illegal acts that can harm yourself and the surrounding community.

Behavioral deviations or illegal acts committed by children are usually caused by various factors including the negative impact of rapid development, globalization in the field of communication and information, advances in science and technology and changes in styles and ways of life as parents. bring about fundamental

social changes in people's lives that greatly affect the values and behavior of these children. Law enforcement against perpetrators of criminal acts must be subject to legal consequences, a matter which is closely related is the issue of punishment. This is related to the objectives of law enforcement that must be achieved, namely fulfilling a sense of justice and achieving legal certainty.

Criminalizing a child is not a retribution for his actions, even if the child must be responsible for an act that is detrimental to others, it must be emphasized to him that the form of punishment is not a fixed price or retribution for his actions and children in conflict with the law are the responsibility of the government and society. Therefore, Law Number 23 of 2002 concerning Child Protection emphasizes that the responsibility of parents, family, community, government, and state really needs to be carried out continuously in order to protect children's rights and develop children towards a more life. good, so that the child is a potential successor of the nation, tough, nationalism, noble, as well as children who behave positively and avoid crimes or acts against the law. As for the punishment or punishment imposed on minors who commit criminal acts regulated in the law or in the Criminal Code (KUHP). A child categorized as a minor is if the child is not yet eighteen (18) years old.

What is transparent in the process of examining a child is that if the child is a suspect, the child is detained, and in terms of time it is not different from the time of detention applicable to adults. Likewise, investigators in examining suspected children are carried out in the same way as adults. In addition, because the detention room was insufficient, it was forced to be mixed with the adult criminal. This mixing

action is not wise, because the children can enjoy the *modus operandi*.

The granting of the category of a delinquent child is justification that can be done through a judicial process whose standards will be weighed and proven before the law. With this change, it is hoped that the handling of cases of children can be differentiated from those of adults for the sake of psychological development of children and the interests and future welfare of children.

In minimizing cases that are detrimental to children, the state or government has made efforts to pay attention to it in the form of Law Number 23 of 2002 concerning Child Protection. However, this has not been able to suppress the increase in the quantity and quality of cases involving children as victims and perpetrators of criminal acts. To respond to this, the State or Government formulates a new statutory regulation, namely Law Number 11 of 2012 concerning the Juvenile Criminal Justice System which will be enforced to resolve and resolve criminal cases committed by children. With the existence and enactment of Law Number 11 of 2012 against the Child Criminal Justice System, it is hoped that it can be more precise and optimal in handling and resolving cases of children who have committed criminal acts.

Method

Etymologically, methodology can be defined as the science of methods. In scientific research, methodological factors play an important role in obtaining objective, valid and further data used to solve problems that have been formulated.

Methodology is a theoretical concept that discusses various methods or scientific

methods used in research. The method is part of the methodology which is interpreted as a technique and interviews in research. For example, observation techniques, source collection methods (heuristics), interview techniques, content analysis, and so on.

In the methodology, it is explained that research has the freedom to have a method for obtaining data. In solving the methodology is very necessary in order to collect data to solve a problem so that it can compile a reliable observation report.

Various matters relating to the methodology to be used in this study can be explained as follows.

A. Types and Research Approaches

The research approach used in observation uses a qualitative approach. A qualitative approach is a process of research and understanding based on a methodology that investigates a social phenomenon and human problems. In this perspective, the researcher creates a complex picture, examines words, reports detailed views of the respondents and conducts studies on natural situations. In this approach the research procedure produces descriptive data in the form of written or spoken words from the people being observed and the behavior being observed.

In general, qualitative research methods are more research and analysis in nature. With an in-depth analysis, and finally the important points can be understood and taken about an incident or problem in the community. In addition, an understanding of the topics or themes raised can be obtained broadly and in more detail using this method.

Qualitative research methods have several special characteristics that describe the process used. Among them, qualitative research uses more data from the

environment, so many qualitative research results produce social research in certain areas and research is carried out in depth. Qualitative research methods also have an inductive nature where initially they are in the form of empirical facts and field research will be carried out in order to obtain various important information in them that can be used as data sources.

The type of research approach used is a case study research approach carried out for research that seeks to develop understanding by describing in depth a case that is the focus of the research. Case study research involves the researcher in-depth understanding of the case being studied.

Cases investigated using this type of methodology can be events, programs and activities that occur at specific locations and places. Individuals who have experience or knowledge related to the case being studied are the most potential participants. The scope of case study research is very limited, even narrow, but profound.

B. Types and Sources of Data

The types of data used in this study include:

- 1) Informants or sources consisting of:
 - a. The perpetrator of the crime of theft is a minor.
 - b. Administrators of the Children Social Rehabilitation Center who Need Special Protection.
 - c. Books or other relevant records.
 - d. Electronic media.

C. Data collection method

The methods used in the preparation of this observation report are as follows:

1) Interview Method

Interviews are a means of re-checking or proving information or information obtained previously. The

interview technique used in qualitative research is in-depth interviews. In-depth interviews are the process of obtaining information for research purposes by means of face-to-face question and answer between the interviewer and the informant or interviewee, with or without using interview guidelines, where the interviewer and the informant are involved in a relatively long social life.

Interviews are a method of obtaining information by asking questions to sources related to research. Interviews are usually open-ended and questions lead to more depth of information. Interviews must be conducted when the resource person and researcher are relaxed and not busy, so that the information conveyed is true and not rushed. Interviews are intended to obtain accurate information and to expand information. Interviews were conducted to obtain objective and complete data.

2) Literature study

Literature study is a method of obtaining information by searching for books or notes related to the theme of the observation report. Doing research means trying to find a solution to a problem that is carried out in reliable scientific ways either in written form or in digital format that is relevant and related to the object being studied.

From reference sources, you can solve problems based on theories that have been generally recognized as valid and can review previous studies related to the object being studied.

Literature study is carried out before the researcher starts his research, this aims to find relevant information in accordance with the object of research and increase knowledge about the problem under study.

Theoretical Basis

1. Crime and Criminology: Some Related Notes

A. Definition of Crime

Criminal action is a juridical meaning, in contrast to the term "evil deed" or "crime" (crime or *verbrechen* or *misdaad*) which is interpreted juridically (law) or criminologically (Sudarto, 1999). Prof. Muljatno, Professor of Gadjah Mada University, uses the term criminal offense in referring to a crime. Criminal acts according to the Criminal Code (KUHP) system are divided into crimes (*misdrifven*) and offenses (*overtredingen*). Based on the MVT explanation (Smidt I page 63 and so on) the division of the two types was based on principal differences. It is said that crimes are *rechtsdelicten*, namely actions which, although not stipulated in the law as criminal acts, have been perceived as *onrecht*, as acts contrary to the legal system. The opposite violation is *wetsdelicten*, namely actions that are against the law can only be known after a *wet* determines it (Moeljatno, 2000). As for several other experts formulating criminal acts, including:

- 1) According to Prof. Dr. Wirjono Prodjodikoro in his book *Principles of Criminal Law in Indonesia* defines "criminal offense" or in Dutch *strafbaar feit*, which is actually the official term in *Strafwetboek* or the Criminal Code, which is currently in effect in Indonesia. There is a term in a foreign language, namely *delict*. A criminal act means an act for which the perpetrator is subject to criminal law. And, this actor can be said to be the "subject" of a criminal act (Arief, 2001).
- 2) In the *Criminal Law Textbook* by Drs. Adami Chazawi, SH stated that the term criminal act is derived from a term known

in Dutch criminal law, namely "strafbaar feit", but there is no explanation of what is meant by strafbaar feit. Therefore, legal experts try to give the meaning and content of the term. Unfortunately until now there is no diversity of opinion.

- 3) According to Pompe, the definition of criminal action is a violation of norms (interference with legal order) that has been intentionally or unintentionally committed by a perpetrator, where the punishment of the perpetrator is necessary for the sake of maintaining legal order and ensuring legal interests.

In the Criminal Code and regulations outside the Criminal Code, criminal acts are formulated in each article. It should be noted that in criminal law legal certainty is an essential matter, which is indicated in Article 1 paragraph (1) of the Criminal Code (KUHP) regarding the principle of legality. In order to understand what is meant in the articles listed, interpretation is needed. However, as is known in the Criminal Code and other regulations such as laws and regulations, there are no further details regarding the formulation of criminal acts. There are various ways of formulating criminal acts as stated in books II and III of the Indonesian Criminal Code which describe illegal acts that are prohibited or ordered to be committed, and anyone who violates them or does not obey them is subject to maximum punishment. Apart from the elements of the actions which are prohibited and those that are ordered to be carried out, the mental attitudes that must be present in the doer or maker are also included. One of the ways to formulate an act or criminal act is to describe the elements contained in the article in question and then add the qualifications or nature and title of the offense, for example theft (article 362 of the Criminal Code). Apart from the elements

of the actions which are prohibited and those that are ordered to be carried out, the mental attitudes that must be present in the doer or maker are also included. One of the ways to formulate an act or criminal act is to describe the elements contained in the article in question and then add the qualifications or nature and title of the offense, for example theft (article 362 of the Criminal Code). Apart from the elements of the actions which are prohibited and those that are ordered to be carried out, the mental attitudes that must be present in the doer or maker are also included. One of the ways to formulate an act or criminal act is to describe the elements contained in the article in question and then add the qualifications or nature and title of the offense, for example theft (article 362 of the Criminal Code).

B. Theft Crime

The definition of theft is formulated in Article 362 of the Criminal Code which states that: "Anyone who takes something, wholly or partly belonging to another person, with the intention of illegally possessing it, is punished for theft, with a maximum imprisonment of five years or a maximum fine of at most a lot of nine hundred rupiahs (Moeljatno, 2008).

If specified, the elements in the Article Theft contain objective elements and subjective elements, which are described as follows:

- 1) Objective Elements
 - a. The element of the act of taking (*wegnemen*)

The word "take" (*wegnemen*) in the narrow sense is limited to moving the hand and fingers, holding the object, and diverting it elsewhere. The element of the action which is prohibited from "taking" shows that theft is classified as a formal crime. Taking on one's own is

a material action that is performed with deliberate movements. In general, fingers and hands are then directed at an object, touch, hold and lift it then carry and move it to another place or within its power.

The main element of this taking action must be an active action, which is aimed at a particular object and there is a process of transferring the power of that object to its power. So that taking can be formulated as doing an action on an object by bringing the object into real and absolute power. This element of absolute and real transfer of the power of things is a condition for the completion of the act of taking, which is also a condition for the completion of a complete act of theft.

b. Element of things

Based on the information listed in *Memorie van Toelichting (MvT)* regarding the formation of Article 362 of the Criminal Code, which is limited to moving objects (*roerand goed*). Immovable objects can only become objects of theft when they are separated from fixed objects and become moving objects. Moving objects are any objects that are tangible and move according to the element of taking action. movable objects are any objects that can move independently as stated in Article 509 of the Civil Code.

c. Elements partly or wholly belong to other people

The object does not have to be entirely the property of other people, only partially, while partially belongs to the perpetrator himself. For example, a motorbike that is jointly owned by A and B, which A then takes from B's power and sells it. However, if the motorbike was originally under his

control and then sold it, it was not theft that had occurred but embezzlement (Chazawi, 2003).

2) Subjective Elements

The intention to have consists of two elements, namely the first element of intention (intention as an intention or *opzet als oogmerk*), in the form of an element of error in theft, and the two elements have it. The two elements cannot be distinguished and separated from one another. The purpose of taking the property of another person must be aimed at owning it, from the combination of these two elements it shows that in the criminal act of theft, the meaning of having does not imply the transfer of property rights to the stolen property to the perpetrator, on the grounds. First, it cannot transfer property rights by violating the law, and secondly, the element of this theft is the intention (subjective) only. As a subjective element, owning is to have for oneself or to become one's own. When connected with the element of intent, it means that before committing the act, the perpetrator has contained a will (mental attitude) for the item to become his property.

a. Against the law

According to Moeljatno, the element against the law in the crime of theft is: "The intention of having against the law or the intention of having it is shown to be against the law, meaning that before taking action takes an object, he already knows and is aware that owning another person's object is contrary to the law. law". For this reason, the element against the law is meant to be the element against the subjective law. This opinion seems appropriate with the information in *MvT* which states that, if

the intentional element is explicitly stated in the formulation of a criminal act, it means that the deliberation must be aimed at all the elements behind it.

The opinions above are taken from the following theories:

- 1) *Contrectatie theorie*, this theory says that for the existence of an act of "taking" it is required by physical touch, that is, the perpetrator has moved the object in question from its original place.
- 2) The theory of ablation (*ablatie theorie*), according to this theory, for the completion of the act of "taking" it requires that the object concerned must have been secured by the perpetrator.
- 3) The theory of *aprehensie* (*aprehensie theorie*), based on this theory, the act of "taking" requires that the perpetrator must make the object in question under his real control (Hendriawan, 2016).

C. The Crime ff The Child

Children are an asset of the nation, as part of the younger generation, children have a strategic role as *successora* nation. This strategic role has been recognized by the international community to give birth to a convention which is essentially to emphasize the position of children as human beings who must receive protection for all their rights. Children who enter the age of growth and development are often treated poorly in their social relationships in society. The result of this is the emergence of children's behavior that is not in accordance with the norms that grow and develop in society. This behavior can be categorized as a violation of the norms commonly referred to by the community as a violation of the law or as a crime

In the development of criminal law in Indonesia, the existence of children who commit criminal acts is still legally processed. This is because a criminal act committed by a person, including children, can harm others. However, every child needs guidance and protection in order to ensure complete, harmonious, and balanced physical, mental and social growth and development. This development and protection of children does not exclude that the perpetrator of the crime is a child. In minimizing cases that harm children.

The state or government has paid attention in the form of laws on child protection which previously existed in Law Number 23 of 2002 concerning Child Protection which in 2014 was amended to Law Number 35 of 2014 concerning Amendments to Law Number 23 2002 concerning Child Protection. Regarding legal protection efforts for children, especially those with legal problems, have been regulated in Law Number 11 of 2012 concerning the Juvenile Justice System regarding diversion and restorative justice in resolving children's cases, of course with the aim that children's rights in this case are problematic with the law. more protected and guaranteed (Purnomo, 2018).

Many countries apply parenting styles and children's education patterns that prioritize human rights, both in social interactions, education, as well as facilities and infrastructure. The child is persuaded, given understanding, and understanding so that the child does not feel depressed. Children who are faced with the law and undergo a criminal process have their own process that is different from adults. Another very important factor is the environment in which the child lives. Children who are born in a bad environment and parents who have poor character, it is likely that the child will

also grow up to be a violent person. In some neighborhoods that are known for their criminal acts, a child who has successfully committed a crime is even garnished and given social recognition. Traffic violations become a very common thing and occur everyday without fear or guilt in the child (Heri, 2016).

The most basic reason for children is the agreement of the United Nations (UN) where in 1948 the United Nations made a declaration known as the Universal Declaration of Human Rights (UDHR), with one of its formulas is that every human being is born free and equal in dignity and rights. - Right. Thus, children are guaranteed their rights to live and develop according to their lives and must be protected. Protection of children's rights by the international community is contained in (1) 1959 UN General Assembly Declaration on the Rights of The Child; (2) 1966 International Covenant of Civil and Rights of The Child; (3) 1966 International Covenant on Economic, Social and Culture Rights; (4) 1989 UN Convention on The Rights of The Child (Mazkur, 2012).

In dealing with and overcoming various actions and behaviors of naughty children, there is a need for consideration of the child's position with all its distinctive characteristics and characteristics. Even though the child has been able to automatically determine steps and actions based on his will, thoughts and feelings, it is the circumstances that can influence his behavior. The crime of theft committed by a child does not happen automatically but occurs because of several factors that motivate or motivate the child to do so. There are 2 (two) forms of the intended motivation, namely:

a. Intrinsic motivation, which is a desire or impulse in a person that does not need to

be accompanied by external stimuli, which includes intelligence factors, namely one's intelligence or one's ability to weigh and give decisions. Then the age factor where age is an important factor is the cause of crime, which is according to the results of the 1998 Tangerang Child Prison research which concluded that the ages of children who often commit crimes range from 15 (fifteen) to 18 (eighteen) years. The next factor is the gender factor in which child delinquency can be committed by both men and women, although boys do more crimes than girls. Gender differences also result in differences in the quality of their delinquency.

b. Extrinsic Motivation, is motivation or encouragement that comes from outside a person which includes: family factors where the family that can be the cause of delinquency, can be in the form of an abnormal family and the situation of the number of family members that is less profitable. There are also functions of education and schools, where the educational process that is less beneficial for the mental development of children will have a direct or indirect effect on students in school. Then the social factor, where children become naughty because they are influenced by social pressure which has a pressing and coercive effect on the formation of bad behavior, so that children often violate rules, social norms, and formal law (Marlina, 2009).

2. Legal Protection of Children as Perpetrators of Crime

Children have rights that are specifically different from the rights of adults because children are very vulnerable to experiencing violence, mistreatment and

exploitation. Various cases of criminal acts involving children having to face the law are actual and factual problems as a social and criminal phenomenon that have raised concerns among parents in particular and society in general. The forms of criminal acts that have so far been committed by children include theft, traffic violations, and maltreatment. Another fact shows that children in various cases have to face the law as victims of violent treatment, both physical and psychological.

Children are an inseparable part of the sustainability of human life and the sustainability of the nation and state. In order to be able to take responsibility for the sustainability of the nation and state, every child has the right to get the widest possible opportunity to grow and develop optimally, both physically, mentally and socially. For this reason, it is necessary to make protection efforts to realize children's welfare by providing guarantees for the fulfillment of rights without any discrimination (Child Protection Law). In the process of growing up, a child has a tendency to misbehave. All of these things are caused by the influence of social relations around, economic influence, and bad moral influences. In implementing guidance and providing protection for children, support is needed both in terms of institutions and more adequate legal instruments. Therefore, the provisions regarding the administration of court for children need to be made specifically.

Indonesia guarantees the human rights of every citizen, including guarantees in terms of protection of children's rights as an inseparable part of human rights. As a state party to the Convention on the Rights of the Child which regulates the principles of legal protection for children, Indonesia has an obligation to provide special

protection for children who are in conflict with the law. One form of child protection is realized through the criminal justice system, especially for children who are faced with the law where this system is built on the basis of statutory regulations, namely Law Number 3 of 1997 concerning Child Courts and Law Number 23 of 2002 concerning Child Protection .

In order to maintain dignity, the child is entitled to special protection, especially legal protection in the judicial system, which is a consequence of Indonesia as a state party to the Convention on the Rights of the Child which regulates the principles of legal protection for children. Child protection is an effort that supports the implementation of the rights and obligations of the child itself. Therefore, a child who obtains and maintains the right to grow and develop in a balanced and positive life, means receiving fair treatment and avoiding harmful threats. Child protection efforts can be a legal action that has legal consequences so as to prevent children from taking arbitrary parental actions (Ariani, 2014). Law Number 11 of 2012 concerning the Criminal Justice System for Children, which has been in effect since July 31, 2014, aims to protect the dignity of children with a restorative justice approach, a child is entitled to special protection, especially legal protection in the criminal justice system. Therefore, the juvenile justice system not only emphasizes the imposition of criminal sanctions for the offender's child but also focuses on the idea that the imposition of sanctions is intended as a means of realizing the welfare of the offender's child. This is also in line with the objectives of the implementation of the juvenile justice system that are desired by the international community.

The study of the implementation and distribution of justice in Indonesia is very

important to discuss, because Indonesian society is still classified as a pluralistic society that cannot avoid conflicts or disputes. In today's society, it has been and will continue to be a regular phenomenon in society, both those related to two individuals and more. This situation further complicates the world of law and justice if all conflicts or disputes are legally processed by the courts (Juhari, 2018). Based on the provisions in Article 1 Number 2 of Law Number 35 Year 2014 concerning Child Protection, it is formulated that child protection is all activities to ensure children and their rights so that they can live, grow, develop and participate optimally in accordance with human dignity and receive protection and violence and discrimination. Children are included in groups that are vulnerable to the occurrence of a criminal act in which they must face the law, both as perpetrators and victims of criminal acts as well as witnesses of the occurrence of the crime.

The criminal act of theft with a child as the perpetrator can have a bad impact on the child himself, but the application of the punishment given to the child is expected to be able to provide a deterrent effect. which is fair cannot be separated from the legal provisions concerning the crime of theft committed by the child.

A child has a high risk of human rights violations when he has to be involved in the criminal justice system. So it is better if diversion is applied in terms of dealing with child problems in conflict with the law. This is because in fact the child offenders who are processed through the criminal justice system cause more harm than good for the child. This is because courts can stigmatize children for their actions so that it is better to avoid leaving the judicial system. The implementation of diversion is motivated by the desire to avoid a person

from negative effects on the psyche and development of children in their involvement in the criminal justice system.

The diversion system is a pathway for solving criminal cases outside the formal legal process where it is based on the concept *restorative justice*. Both have similar characteristics in terms of solving criminal problems through deliberation involving perpetrators, victims, law enforcement officials, and the community (Yunus, 2013). The form of legal protection provided to children in the criminal justice system starts from the stage of investigation, prosecution, trial and correctional facilities which are then strictly regulated in Law Number 11 of 2012 concerning the Juvenile Justice System. The legal protection provided to children at each stage of the justice system can guarantee the implementation of children's rights to receive different treatment from the justice system in general. The imposition of the law on children itself is the last resort that should be done (*ultimum remedium*) if no diversion agreement has been attempted at all levels of examination.

Result and Discussion

1. Factors that Encourage Perpetrators to Commit Underage Theft

According to Article 1 of the Convention on the Child, the definition of a child is defined as "every human being who is under 18 years of age unless under the law applicable to the child it is determined that adulthood is reached earlier".

The various criteria for a child's age limit are basically the grouping of the maximum age as a manifestation of the ability of a child in legal status so that the child will change the status to adulthood or become a legal subject whose data is

independently responsible for legal actions and actions. done by that kid (Wadong, 2000).

Some things that need to be considered that the indicator to say that a person has been said to be an adult is that he can do legal actions himself without the help of other people, either parents or guardians. In principle, a minor is someone who grows in his development which this child needs guidance for the future.

Conceptually, a child in conflict with the law is defined as: a person under the age of 18 who is dealing with the criminal justice system because the person concerned is suspected or accused of committing a criminal act.

Children who are in conflict with the law are children who have reached the age of 12 but are not yet 18 years old and are not married, namely:

- 1) The one who is suspected, suspected, indicted, or sentenced to have committed a criminal act
- 2) Those who are victims of a criminal act or who have seen and / or heard of a criminal act themselves.

Judging by the scope, children who are dealing with the law can be divided into:

- 1) Perpetrators or suspects of criminal acts
- 2) Victim of a crime
- 3) Witness of a criminal act (Tambalean, 2013).

In the case reviewed in this paper, R is a perpetrator of a criminal act, namely the perpetrator of a criminal act and is a child under age. R is still 16 years old. R stole 10 durians.

According to Article 1 paragraph (2) of Law Number 3 of 1997 concerning Juvenile Court, there are two categories of child behavior that can make a child face the law, namely offence status and criminal offence. Offence status is a child's

delinquency behavior which, if done by an adult, does not include a crime or a child who commits a forbidden act for a child. For example, disobeying, skipping school, running away from home. Meanwhile, criminal offence is committed by adults, including in the category of crimes or children who have problems with the law. (Maluana, 2000). The action that was carried out by R was a criminal offence because theft was a criminal act which if it was committed by an adult was categorized as a crime. The perpetrator named R committed theft in the forest area of his home, namely in Purworejo. R saw that there was no one in the forest so he intended to steal durian in the forest. In this case R has the opportunity to commit theft. R committed the theft together with his friend who was both underage. They commit the theft to get money and use it for fun.

Crime theory can and should help prevent crime. New opportunities for crime theories emphasize principles that are close to the real world, easy to explain and teach and ready to put into practice. This theory builds on the old adage that "opportunity makes a thief". The definition of opportunity is the main cause of crime and illustrates how theory helps thinking about crime prevention (Felson, 1995).

Theft in the Criminal Code Article 362 is subject to a maximum imprisonment of five years or a maximum fine of nine hundred rupiahs. However, in Law Number 23 of 2002 concerning child protection, what is meant by children are those who are not yet 18 (eighteen years old), including children who are still in the womb (Child Protection Law, 2000). Therefore, children still need guidance and protection in order to ensure complete physical, mental and social growth and development, so as not to commit criminal acts. The authorized

institution cannot decide to imprison a minor, but only recommends making a policy (Richard, 2004). The policy in question is a diversion policy. This guidance and protection also does not exclude children from committing criminal acts. Even though in this case a child committing a criminal act of theft can be categorized as a naughty child (Soetodjo, 2008).

In this case, R did not receive the sanctions contained in the Law. The victim and R and their friends mediated. Because when they were caught stealing by residents, they were taken to the police station and were not subject to legal proceedings but mediated so that R and his friend had to stay at the rehabilitation center in Magelang.

Mediation based on deliberation towards a peace agreement has received separate arrangements in a number of legal products. In this modern era, there are specific aspects of juvenile crime, including serious offenses that are the focus of attention on juvenile crime policies (Zimring, 2002). Alternative arrangements for dispute resolution in the rule of law are very important, because Indonesia is a country of law. The basic idea of having an alternative case settlement in a criminal case is related to the nature of the criminal law itself. The criminal law is *Ultimum Remedium*, according to Van Bemmelen, the criminal law is the *Ultimum Remedium*, which is the last drug. As far as possible it is limited, meaning that if other parts of the law are not sufficient to affirm the norms recognized by law, then the criminal law will be applied. The threat of punishment must still be an *Ultimum Remedium*, this does not mean that the threat of punishment will be eliminated, but it is always necessary to consider the pros and cons of the criminal threat, and must guard against the drug being given more evil than the disease.

Diversion arrangements are expressly regulated in the Juvenile Criminal Justice System Law as a legal basis for the implementation of the settlement of criminal cases committed by children through out-of-court proceedings.

In dealing with children who are in conflict with the law, always pay attention to the different conditions of children from adults. The basic nature of the child as an unstable individual, the child's future as an asset of the nation, and the position of the child in society that still needs protection can be used as the basis for finding an alternative solution to how to prevent children from a formal criminal justice system, placing children in prison, and stigmatization. against the child's position as a prisoner. One solution is to apply diversion. Diversion is an act or treatment to divert a case from a formal process to an informal process or to place child offenders out of the juvenile justice system. or placing child offenders out of the criminal justice system (Marlina, 2009).

Diversion is a policy undertaken to prevent perpetrators from the formal criminal justice system. Diversion is carried out to provide protection and rehabilitation to perpetrators in an effort to prevent children from becoming adult criminals. The concept of diversion is a persuasive action or approach and provides opportunities for actors to change (Marlina, 2009: 19). Diversion is carried out on the grounds of providing an opportunity for lawbreakers to become good people again through non-formal channels by involving community resources, diversion seeks to provide justice to cases of children who have already committed criminal acts up to law enforcement officials as law enforcers.

One of the factors that R committed to the crime of theft of 10 durians was that

R's parents never paid attention to R. Her father, Tri Cahya Sulistio, worked as a carpenter and her mother, Supami Dewi Wahyuni, worked as a farmer outside Java. When his mother was going out of the island, R was not excused so that R never communicated with his mother. In his family it can also be called a less harmonious family because R has never been cared for and feels that both his parents often favor his brothers and sisters. R has a younger brother who is still in elementary school and his younger brother lives with his father. Meanwhile, R lives with his grandmother who is old and does not work so that R cannot continue his studies to junior high school and becomes unemployed.

Parents are the primary and first persons in the child's life. The personality of the parents, their attitudes and life order are the elements which automatically enter into the person who grows (Darodjat, 1970: 56). Weak attachment between parent and child can become a less harmonious relationship, negative judgments are often labeled on parents because of the lack of attention. The very big role of the family will determine the harmony in family relationships (Richard, 2004).

Family harmony is a condition in a family in which a strong diverse life is created, a warm atmosphere, mutual respect, mutual respect, mutual care, mutual openness, mutual care and colored love and mutual trust so as to enable children to grow and develop harmoniously. and balanced. Meanwhile, in the R family, there is no creation of a harmonious family as the family should be like he is not given love by his parents, there is no warmth in his family and is alienated by his family so he is dismissed by committing criminal acts.

Apart from the family factor that is not harmonious, there are other factors that

cause R to commit theft, namely economic factors. The economic condition of the R family includes middle to lower class families. Therefore, R only graduated from elementary school and did not continue to junior high school. She didn't have enough money to buy the things she wanted to buy and enough pocket money because her grandmother who looked after her was not working. So he committed the theft so that he had money to buy goods and to have the right pocket money. There is also some evidence that education can also increase income from crime because certain skills acquired at school may not be appropriately used for criminal activities (Machin, 2011).

Criminal acts committed by children are mainly due to low family economic factors, neglect, bad social influence or because of dropping out of school. The involvement of children as perpetrators of theft certainly cannot be considered as something that is not important to be studied, especially if a child is sentenced to imprisonment even though only theft has a low value (Heri, 2016).

He admitted that he had committed thefts before 7 times and had never been caught. That's because the thefts committed before were never caught and he had the opportunity to commit the thefts. So that he became addicted to committing these criminal acts. The residents caught the latter and were immediately taken to the police station, but it was not processed, only mediation was carried out between R and the victim.

After conducting mediation, R and his friends were taken to the Social Rehabilitation Center for Children who Need Special Handling in Magelang. Child Social Welfare Activities are a systemic and sustainable effort developed by the Ministry of Social Affairs of the Republic of

Indonesia in responding to the development of children's social welfare problems throughout Indonesia. This program is designed to produce directed, integrated and sustainable efforts by the government, local government and the community in the form of social services and social welfare assistance for children, which reach all children with social problems so that they can enjoy life and be in a nurturing environment that makes it possible. to grow and develop optimally according to their potential (Kemensos, 2000).

The children's rehabilitation center in Magelang is called BRSAMPK Antasena, which is on the Purworejo-Magelang road. At BRSAMPK, R and his friends were given direction and were taught kindness to form a better character. R must stay for 6 months in BRSAMPK. R entered in March and came out in August / September. Just a few weeks there, his friend was sick and had to be rushed to one of the hospitals in Magelang. Apart from providing assistance in the orphanage, BRSAMPK Antasena also conducts outreach outside the institution as a preventive or preventive activity. Of course, the children who are reached outside the orphanage are not necessarily all criminal offenders. The outreach is selected in a location where the child has the potential to commit a criminal offense. BRSAMPK Antasena covers up to six provinces. Namely, covering Central Java, Yogyakarta Special Region, East Java and Kalimantan Island, minus South Kalimantan. Of course, in carrying out outreach activities and services based on referrals, BRSAMPK Antasena does not move on its own. However, partnering with various law enforcement agencies, such as the police, prosecutors, courts and prisons.

BRSAMPK Antasena in its services provides physical guidance, covering

personal appearance, such as dressing neatly, cleanly including a neat place to live. In addition, it also provides mental guidance related to ethics, including increasing understanding of religion. Do not forget to also provide social guidance. As well, given skills guidance, both basic and optional. To get basic skills, children must first go through vocational studies to find out their interests and talents, just like majors in formal schools. Antasena, including motor, welding and electrical repair skills. Meanwhile, various skills are provided for the options, such as computers, handicrafts, haircuts, decoration and cottage industries. In determining the skills to be provided, it is also adjusted and viewed from future prospects. For example, if the child's family has a workshop, the child is considered to be directed to get workshop skills. Even though the skills are given, it does not mean that it is only for skills or that it is hoped that when the child leaves the institution, he can immediately work. But the guidance of these skills is also a means of child therapy.

Dealing with children, especially those with problems, is certainly not easy, so it requires certain moves and different approaches. They must be touched without violence and treated like friends so that the children will open up to know the problems they face and are willing to receive guidance. If they break the rules of the orphanage, the sanctions given are also in accordance with the agreement. For example, if you mock a friend, you have to apologize, if you say harshly to your supervisor you also have to apologize and write an apology directly. With a busy schedule of activities starting at 04.00 am starting with dawn prayers interspersed with two hours of rest at noon until it ends at At 21.00 WIB, it may be difficult at first for children who are used to living freely. The

premise of environmental criminology, for example, is that crime can be reduced through environmental design (Reyns & Henson, 2015).

Based on the rules of the Juvenile Criminal Justice System Law, it regulates children who are perpetrators and who are faced with the law with the threat of imprisonment for under seven years to be sent to the Children's Confront with the Law (ABH) home under the coordination of the Ministry of Social Affairs. seven years sent to the Child Welfare Institution (LPKA) which is under the coordination of the Ministry of Law and Human Rights. Children as the nation's next generation should get their rights and are not treated as adults, even though children have made serious mistakes. They are the ones who have problems and are guided in them. Social homes Antasena mostly from poor families and neglected education. The hope is that after they are nurtured and return to their families, they can live a better life with the skills and guidance they get (Antasena Kemensos, 2000)

2. Legal Protection of Children as Criminal Actors in the Child Criminal Justice System in Indonesia based on Law No. 11 of 2012 concerning the Juvenile Criminal Justice System

A. Legal protection for children at the investigation stage

Law Number 11 of 2012 concerning Juvenile Criminal Justice System, child criminal justice procedures are regulated in Chapter III starting from Article 16 to Article 62. As a form of guaranteeing the protection of the rights of children, child investigators, child public prosecutors and judges Children are obliged to provide special protection for children who are

examined for crimes committed in emergency situations as well as special protection and implemented through imposing sanctions without any weighting.

The trial process is still using the model in Law No.11 of 2012 concerning the Criminal Justice System for Children, Article 22, in the form of a prohibition on using a gown or official attributes for officers.

a) Arrest and Detention

Regarding the act of arrest and detention it is not regulated in detail in the Law on the Juvenile Criminal Justice System, so the provisions of the Criminal Procedure Code apply. Article 30 of Law Number 11 of 2012 concerning the Criminal Justice System for Children, which stipulates that the arrest of a child is carried out for the purpose of investigation for a maximum of 24 (twentyfour) hours and the child who is arrested must be placed in a special child service room. Detention is carried out for the purpose of prosecution, the Public Prosecutor can carry out detention for a maximum of 5 (five) days. The period of detention as requested by the Public Prosecutor can be extended by a district court judge for a maximum of 5 (five) days and in the event that the said period has expired, the child must be released by law (Juvenile Criminal Justice System Law, UU SPPA).

The basis for allowing a detention of a child is a strong allegation based on sufficient evidence that the child has committed a criminal act (delinquency). To guarantee that the provisions regarding the basis of detention are implemented, a supervisory institution is held that is carried out by superiors in their respective agencies, which is a built in control as well as supervision as a system of checking between law enforcers (Gultom, 2014). Carrying out

an arrest, the principle of presumption of innocence must be respected and upheld in accordance with the dignity of the child as a group that is unable or does not know about the legal problems that occur to the child.

Detention is the assignment of a suspect or defendant to a certain place by a child investigator or a child public prosecutor or a child judge by ruling, according to a method regulated by law. If detention interfered with the child's physical, mental and social development, the child was not detained. Detention was carried out as a last resort / last measure (*ultimum remedium*) for a short / short period of time.

b) Investigation Process

In Article 26 of Law Number 11 of 2012 concerning the Criminal Justice System for Children, it is stated that investigating children. Investigations in juvenile cases are carried out by investigators who are determined based on the Decree of the Head of the National Police of the Republic of Indonesia or other officials appointed by the Chief of the Indonesian National Police. Investigators stipulated in Law Number 11 of 2012 concerning the Criminal Justice System for Children, must be considered the same as the status and function of an investigator stipulated by the Criminal Procedure Code. The investigation of the child must be in a family atmosphere. Article 27 paragraph 1 Law no. 11 of 2012, stipulates that in carrying out delinquent child investigations, the investigator is assisted by a social advisor. The process of investigating delinquent children must be kept secret (Article 19 paragraph 1 of Law No. 11 of 2012).

1) Legal Protection of Children at the Prosecution Stage

The prosecutor in the juvenile criminal procedure implies the act of the Child Public Prosecutor to delegate a juvenile case to a juvenile court with a request to be examined and decided by a juvenile judge in a juvenile trial. The Child Public Prosecutor is obliged to seek diversion for a maximum of 7 (seven) days after receiving the case file from the investigator and the diversion as intended, shall be carried out no later than 30 (thirty) days. In the event that the diversion process succeeds in reaching an agreement, the Public Prosecutor submits an official report on the diversion successfully reaching a diversion agreement to the Head of the District Court to make a decision. If the diversion fails, the public prosecutor is obliged to deliver an official report on the diversion and delegate the case to the court by attaching a report on the results of social research. 12 In juvenile trial, there is the possibility of case negation (Gultom, 2014: 141).

2) Legal Protection for Children at the Examination Stage at the Court

In the trial process, in principle, children are tried in the special court room for children and the waiting room for children is separated from the waiting room for adults. Meanwhile, the trial time for children takes precedence over the trial time for adults. In addition, the judge examines the case of the child in a trial which is declared closed to the public, except for the reading of the decision. In the children's trial, the judge is obliged to order parents / guardians or companions, advocates, other legal aid providers, and community advisers to accompany the child. If the parent / guardian / companion is absent, the trial will continue to be accompanied by an advocate or other legal aid provider and / or social advisor. In the event that the judge does not

implement the provisions referred to above, the juvenile trial will be null and void (Gultom, 2014: 146).

In the process of reading the court's decision, it is carried out in a trial that is open to the public and may not be attended by children. According to Article 69 of Law Number 11 of 2012 concerning the Criminal Justice System for Children (UU SPPA stipulates that children can only be sentenced to a criminal offense or subject to action based on the provisions of this law. Children who are not yet 14 (fourteen) years old can only be subject to action.

3) Legal Protection for Children at the Correctional Stage

The Child Penitentiary plays a role in guiding prisoners, who treat inmates to be good. Child Criminal is a child who, based on a court decision, is serving a sentence in a Children's Correctional Institution for a maximum of 18 (eighteen) years, if he is 18 (eighteen) years old but has not finished serving his sentence, he must be transferred and his place is separated from the convict who is aged 21 (twentyone) years. The types of prison development can be classified into 3 (three), namely: Mental Coaching, Social Coaching, Skills Development (Gultom, 2014: 174).

4) Children's Rights to Legal Protection in the Criminal Court Process

The principles of protection of criminal law against children are reflected in Article 37 and Article 40 of the Convention on the Rights of the Child which was ratified by presidential decree No.36 of 1990, dated August 25, 1990. Article 3 of the SPPA Law states that every child in the criminal justice process has the right: To be treated humanely with due observance of his / her age and separated from adults, to receive legal and other assistance effectively, to be free from torture, punishment or other cruel,

inhuman and degrading treatment degree and dignity, not sentenced to death or life imprisonment, not arrested, detained, or imprisoned except as a last resort and within the shortest time.

5) Analysis of case R who committed the crime of theft

R was not legally processed because when he was caught stealing 10 durian, the perpetrator was immediately taken by the residents to the police station and mediated between the perpetrator and the victim. Mediation based on deliberation towards a peace agreement has received separate arrangements in a number of legal products.

The settlement of the case outside the trial will certainly resolve the conflict that occurs as a result of the crime, because when the two parties, namely the perpetrator and the victim, have reconciled, it will automatically relieve the guilt of the convicted person because the victim has forgiven the convict. A sense of peace in society can be achieved and returned to its original condition as it was before the crime occurred.

To understand criminal decisions, it is necessary to understand the perspective of actors making decisions, their interpretation of events, and their material and expressive goals (Copes, 2003).

In connection with criminal cases committed by children, the settlement of the case can be done outside the court process, which is called diversion. Diversion arrangements are expressly regulated in the Juvenile Criminal Justice System Law as a legal basis for the implementation of the settlement of criminal cases committed by children through out-of-court proceedings (Rahayu, 2015).

Diversion is a diversion of the settlement of juvenile cases from the criminal justice process to non-criminal

justice processes, as referred to in Article 1 Number 7 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). The SPPA Law substantially regulates restorative justice and diversion which is intended to avoid and keep children away from the judicial process so that they can avoid stigmatization of children in conflict with the law and it is hoped that children can return to the social environment properly.

Diversion is carried out to provide protection and rehabilitation to perpetrators in an effort to prevent children from becoming adult criminals. The concept of diversion is a persuasive action or approach and provides opportunities for actors to change (Marlina, 2004).

Diversion is carried out on the grounds of providing an opportunity for lawbreakers to become good people again through non-formal channels by involving community resources, diversion seeks to provide justice to cases of children who have already committed criminal acts up to law enforcement officers as enforcers law.

The transfer given to the perpetrator is to the Child Rehabilitation Center in Magelang. This diversion is intended to prevent the child from being involved in the same severe sanctions as the sanctions given to adult perpetrators. Children are also the heirs of the nation who still have a long future, so children need to be guided in a special place, namely the Child Rehabilitation Center that Requires Special Handling. As for the bad effects of juvenile justice, namely:

- a) Trauma due to treatment by law enforcement officials at each stage
- b) The stigma or label of evil on the perpetrator so that the child is always worried about doing evil.
- c) Child expelled from school.

The objectives of the diversion itself are as follows:

- a) Achieve peace between victim and child
- b) Resolving children's cases outside the judicial process
- c) To prevent children from being deprived of their freedom
- d) Encourage the community to participate
- e) Instilling a sense of responsibility to children

Another thing that needs to be considered is the delinquency category of the acts that have been committed by the child. The purpose of this category is to classify crimes into 3 (three), namely as follows:

- a) Minor crime
Actions that are classified as minor crimes are as follows: minor theft, light assault without causing injury or minor damage to property.
- b) Moderate crime
An act that is classified as a moderate level of crime is a type of crime in which there is a combination of all conditions that are considered by the speed to solve it whether through diversion or not.
- c) Serious crime
For serious crimes, such as sexual assault and physical assault cases that cause serious injury.

Based on the above categories, minor and moderate crimes / delinquency can be resolved through diversion, while in cases of crimes / delinquency at a serious level, the settlement cannot be through diversion or in other words diversion is not a way of solving. In the case of 10 durian theft by R, it was a minor crime so it could be resolved through diversion.

Apart from the aforementioned considerations, there are conditions for diversion against delinquents who commit criminal acts, namely:

- a) Child perpetrator who commits a crime for the first time
- b) Relatively young child age
- c) The implementation of diversion programs imposed on children has the consent of the parents / guardians, as well as the child concerned
- d) The crimes committed can be minor or serious (in certain cases)
- e) The child has pleaded guilty to committing a crime / crime.
- f) The public supports and does not object to the transfer of this examination
- g) If the implementation of the diversion program fails, then the child offender is returned to be formally raped (Dewi, 2011).

In R's case, the perpetrator admitted to having committed minor thefts before but was never caught so that there was no legal process. In the last action, the perpetrator was caught and carried out by diversion because the age of the perpetrator was relatively young, namely 16 years. The programs imposed on R have the consent of the grandmother as the guardian of the child. The community and victims also agreed to do the diversion.

Article 11 of the SMRJJ (The Beijing Rules) contains the following principles of diversion:

- a) The idea of diversion was carried out after seeing proper considerations, namely that law enforcers (police, prosecutors, judges, and other institutions) are given the authority to deal with young law violators without using formal courts.
- b) The power to determine diversion is given to law enforcement officials such as police, prosecutors, judges and other agencies handling cases of these children, according to their policies, according to the criteria determined for

that purpose in their respective legal systems and also in accordance with the principles of principles that sometimes in The Beijing Rules,

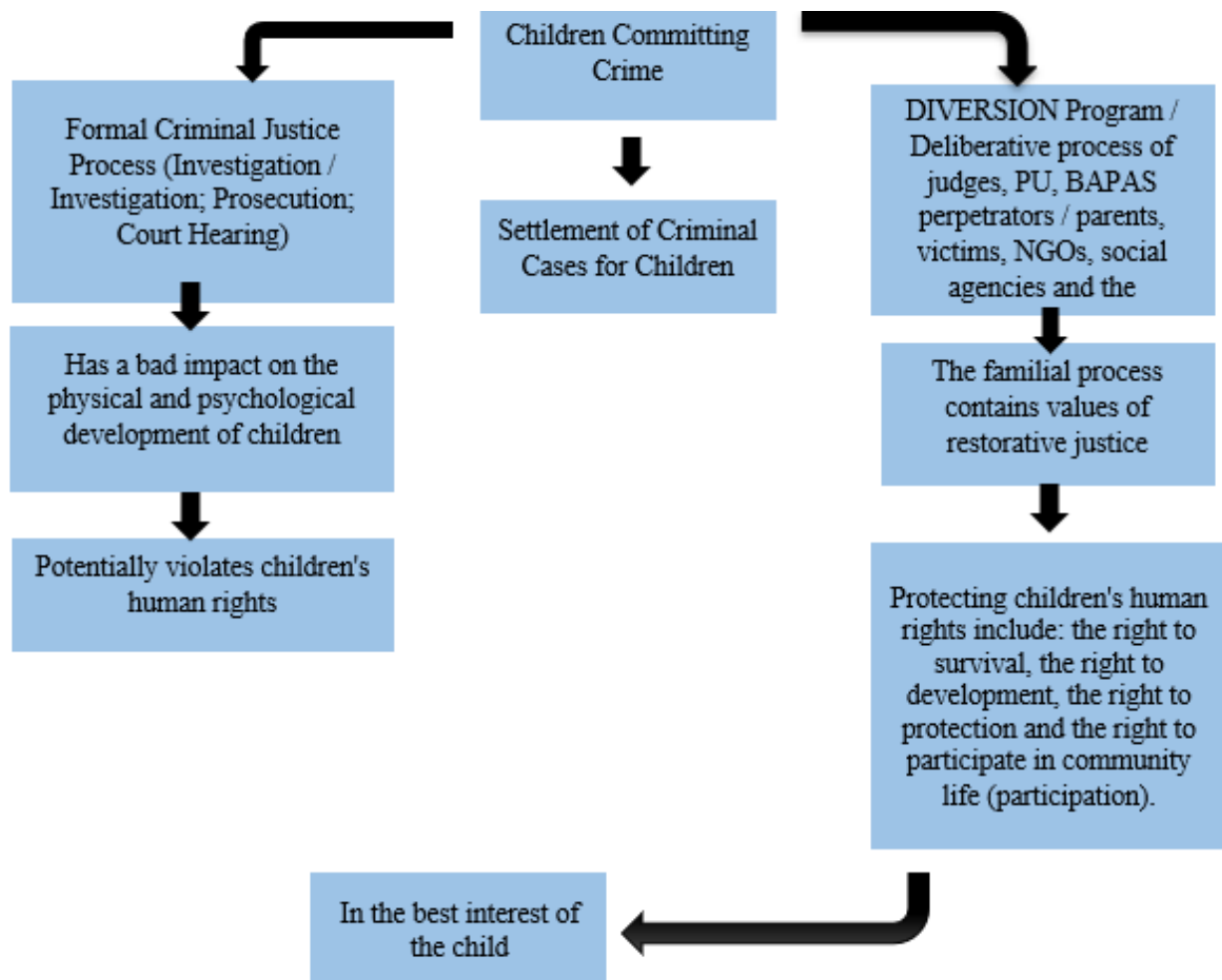
- c) The implementation of the diversion idea must be with the consent of the child, or the parent or guardian, however the decision to implement the diversion idea after there is a review by the competent authority on the application for the idea
- d) Implementing the idea of diversion requires cooperation and the role of the community, in connection with the diversion program: supervision, temporary welfare guidance, recovery and compensation to victims.

In Article 7 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System it is stated that at the level of investigation, prosecution and examination of cases of children in district courts, diversion is mandatory. Diversion is carried out in the event that a criminal act committed is punishable by imprisonment of under 7 years, does not constitute a repetition of a criminal act, and is committed against children aged 12 years and over.

Indonesia has only explicitly accommodated the settlement process for juvenile criminal cases through diversion, in 2012. The provisions for diversion are regulated through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). Based on this law diversion aims to achieve peace between victims and children, resolve child cases outside the judicial process, prevent children from being deprived of liberty, encourage society to participate, and instill a sense of responsibility towards children. The following is the scheme for implementing diversion of transfers as a form of settlement of juvenile cases.

To ensure protection of children's rights in conflict with the law, Law Number 3 of 1997 concerning Children's Courts (Law on Children's Courts), among other things, regulates how a child should be treated in every examination process and provides protection for the rights of children in juvenile justice process. The protection of children's rights in the judicial process for children in conflict with this law is reaffirmed in Article 65 of Law Number 23 of 2002 Child Protection (Child Protection Law) which states: The government and other state institutions have the obligation and responsibility to provide special protection to children in emergency situations, children in contact with the law, children from minority groups and isolated, children who are exploited economically

and / or sexually, children who are trafficked, children who are victims of drug abuse, alcohol, psychotropic substances, other additives, children who are abducted, the sale and trafficking of children with disabilities and children victims of abuse and neglect help the Judge not to wear suit. All the oversized clothes were not worn by the examining official, intended so that the trial did not give the child being examined. Besides that, wearing ordinary clothes can make the trial run smoothly and family-friendly. The sale and trafficking of children with disabilities and children victims of abuse and neglect help the Judge not to wear a coat. All the oversized clothes were not worn by the examining official, intended so that the trial did not give the child being examined. Besides that, wearing normal



clothes can make the trial run smoothly and family-friendly. The sale and trafficking of children with disabilities and children victims of abuse and neglect help the Judge not to wear a coat. All the oversized clothes were not worn by the examining official, intended so that the trial did not give the child being examined. Besides that, wearing ordinary clothes can make the trial run smoothly and family-friendly (Rosecrance, 1986).

The form of legal protection for children in the judicial process for children in conflict with the application of special provisions such as special trials for children, the requirement that law enforcement officials in cases of children must have an interest, attention, and dedication to child problems. Children are placed in the Children's Prison, the fulfillment of children's rights in conflict with the law and others, which is a form of legal protection for children as criminals (Sinaga, 2010).

The thief is not really bad and the judge is not completely good in the absolute sense of these terms. There is a part of the thief that gives and cares, which Genet shows by acknowledging giving to charity while on the way to theft. This ambiguity is important to understand because it forces us to question the nature of our punishment and the process of creating our laws (Geat, 2005).

B. Factors Affecting the Implementation of Legal Protection for Children Perpetrators of Crime in the Investigation Process

Legal protection is interpreted as an effort made by every person or government institution with the aim of protecting, securing, and fulfilling welfare in accordance with existing human rights.

The law functions effectively to protect human interests. If legal protection is enforced, law enforcement can be realized. In the process of Investigating Children's Cases, in this case Investigators as law enforcers must carry out law enforcement properly as a desire to realize legal protection for children who are in conflict with the law.

The factors that influence implementation include:

- a) The law
What is meant by law is the law, in the process of investigating the Child Case at the Maros Resort Police, the investigator's authority to coordinate with the child public prosecutor, in terms of harmonizing the law to avoid the back and forth of investigation files.
- b) Law enforcer
Namely the parties who are directly involved in the field of law enforcement. In carrying out their duties, they must be in accordance with their respective roles and in accordance with the prevailing laws and regulations. In conducting investigations, professionalism must be prioritized.
- c) Public
This means that people must know and understand the applicable law. Investigators in conducting investigations need to have the role of the community to add information related to the cases being investigated.
- d) Facilities
Facilities are one of the factors that affect the legal protection of children. In the process of investigation, it is necessary to have a private room or room designated for children who are separated. With the existence of these means or facilities, investigating enforcers can actually harmonize their

roles in terms of efficiency and effectiveness in relation to the protection of the law against children of criminal offenders.

Conclusion

According to Article 1 of the Convention on the Child, defines the definition of a child as every human being who is under 18 years of age unless the law that applies to children stipulates that adulthood is reached earlier. In principle, a minor is someone who grows in his development where the child needs guidance for the future. Conceptually, a child in conflict with the law is defined as: a person under the age of 18 who is facing the criminal justice system because the person concerned is suspected or accused of committing a criminal act.

In the case reviewed in this paper, R is a perpetrator of a criminal act, namely the perpetrator of a criminal act and is a child under age. R was 16 years old and stole 10 durians. According to Article 1 paragraph (2) of Law Number 3 of 1997 concerning Juvenile Court, there are two categories of child behavior that can make a child face the law, namely offence status and criminal offence. Offence status is a child's delinquency behavior which, if done by an adult, does not include a crime or a child who commits a forbidden act for a child. Meanwhile, criminal offence is committed by adults, including in the category of crimes or children who have problems with the law. The action that was carried out by R was a criminal offence because theft was a criminal act which if it was committed by an adult was categorized as a crime. The perpetrator named R committed theft in the forest area of his home, namely in Purworejo. R saw that there was no one in

the forest so he intended to steal durian in the forest. In this case R has the opportunity to commit theft. R committed the theft together with his friend who was both underage. They commit the theft to get money and use it for fun. In this case, R did not receive the sanctions contained in Law Number 23 of 2002 concerning Child Protection. Because the victim and R and their friends did mediation. When they were caught stealing by residents.

Apart from family factors that are not harmonious, there are other factors that cause R to commit theft, namely economic factors. The economic condition of the R family includes middle to lower class families. Therefore, R only graduated from elementary school and did not continue to junior high school. She didn't have enough money to buy the things she wanted to buy and enough pocket money because her grandmother who looked after her was not working. So he committed the theft so that he had money to buy goods and to have the right pocket money. Criminal acts committed by children are mainly due to low family economic factors, neglect, bad social influence or because of dropping out of school. The involvement of children as perpetrators of theft certainly cannot be considered as something that is not important to study.

R was not legally processed because when he was caught stealing 10 durians, the perpetrator was immediately brought by the residents to the police station and mediated between the perpetrator and the victim. Mediation based on deliberation towards a peace agreement has received separate arrangements in a number of legal products. The settlement of the case outside the trial will certainly resolve the conflict that occurs as a result of the crime, because when the two parties, namely the perpetrator and the

victim, have reconciled, it will automatically relieve the guilt of the convicted person because the victim has forgiven the convict. A sense of peace in society can be achieved and returned to its original condition as it was before the crime occurred.

In connection with criminal cases committed by children, the settlement of the case can be done outside the court process, which is called diversion. Diversion arrangements are expressly regulated in the Juvenile Criminal Justice System Law as a legal basis for the implementation of the settlement of criminal cases committed by children through out-of-court proceedings. Diversion is a diversion of the settlement of juvenile cases from the criminal justice process to non-criminal justice processes, as referred to in Article 1 Number 7 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). The SPPA Law substantially regulates restorative justice and diversion which are intended to avoid and keep children away from the judicial process so that they can avoid stigmatization of children in conflict with the law and it is hoped that children can return to the social environment properly. Diversion is carried out to provide protection and rehabilitation to perpetrators in an effort to prevent children from becoming adult criminals. The concept of diversion is a persuasive action or approach and provides opportunities for actors to change.

Diversion is carried out on the grounds of providing an opportunity for lawbreakers to become good people again through non-formal channels by involving community resources, diversion seeks to provide justice to cases of children who have already committed criminal acts up to law enforcement officials as law enforcers.

Suggestion

Criminalizing a child is not a retribution for his actions, even if the child must be responsible for an act that is detrimental to others, it must be emphasized to him that the form of punishment is not a fixed price or retribution for his actions and children in conflict with the law are the responsibility of the government and society. Therefore, Law Number 23 of 2002 concerning Child Protection emphasizes that the responsibility of parents, family, community, government and state really needs to be carried out continuously in order to protect children's rights and develop children towards a more life. good, so that the child is a potential successor of the nation, tough, nationalism, noble, as well as children who behave positively and avoid crimes or acts against the law. As for the punishment or punishment imposed on minors who commit criminal acts regulated in the law or in the Criminal Code (KUHP). A child categorized as a minor is if the child is not yet eighteen (18) years old.

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