

Minors and Crime: Law and Criminological Analysis on Theft by Children (Case of Central Java, Indonesia)

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Abstract

Juvenile delinquency comes in many forms-one of which is theft. This delinquency is a social phenomenon with a continuation of criminology. Juvenile crimes are a major concern because children are the generation of the nation. Children who commit criminal acts certainly have both internal and external causes. The treatment of child criminals is part of the policy as a child protection effort as a form of law enforcement. Criminology plays an important role in this case because it is also called criminal sociology



because it is the study of humans in its opposition to certain social norms. Criminology examines social symptoms in the field of crime occurring in the community or with the intent that the defendant has committed these crimes.

KEYWORDS

Theft, Minor and Crime, Law Enforcement, Criminology, Juvenile Delinquency

Introduction

E. H. Sutherland and Donald R. Cressey affirmed their opinions regarding criminology. He analyzed that criminology is “a *body of knowledge regarding crime as a social phenomenon*”, namely the science of various sciences that explore, studying crime as a social issue. Noach also argues that criminology is a science that studies issues of crime and deviant behavior, cause, and effect. An anthropologist named P. Topinard (1830-1911) used the term criminology for the first time; he described criminology as the same science as his name, namely the science that covers crime. Criminology prioritizes preventive action, meaning that criminology studies crime as a social phenomenon, meaning that crime is the target of investigation because of the impact caused by the interaction of various humans.¹

The 1945 Law Article 1 Paragraph 3 affirms that Indonesia is a state of law with the consequence that all actions must be in accordance with applicable rules and prohibited actions or behaviors have been regulated in the legal order. According to quantitative data sourced from the Child Protection Commission or KPAI from 2011 to 2017, approximately 9,266

¹ I.S. Susanto, S. (2011). *Criminology*. Yogyakarta: Genta Publishing.

cases of children affected by legal cases according to the data tend to increase significantly. The cause of juvenile delinquency has been investigated by experts caused by *expetation* gaps or incompatibility of ideals with existing means.

The interaction of children who commit criminal acts is a picture of the surrounding environment. The environment is something that affects children's attitudes or actions indirectly. Environments that show indifference to surroundings, deviant environments and environments that ignore children's attitudes are inappropriate environments because children will develop their attitudes and behaviors or model their environment into a deviant attitude. Children who commit crimes or crimes certainly have the ins and outs of why they can do this, or it can be said what makes them do it. Of course, all because there is a cause, it is necessary to know what factors from within and factors from outside cause the children's actions.

Therefore, children need protection and care so as not to exceed the limits of actions that lead to criminal acts. One of the subjects and objects of development in Indonesia is children. This country has regulations that protect children's rights, namely Law No. 4 of 1979 relating to child welfare, but the question is whether children will be guaranteed and legally protected. Data from KPAI is a reflection that the law does not have a significant impact on the future of Indonesian children. Criminal cases committed by children are very worrying because children are the next generation of the nation. These children's actions need to be studied more deeply criminologically and how they are resolved.

Criminology is always looking for the cause of a crime. It is very important to get criminology learning because by getting criminology learning we become more understanding of the causes of crimes committed by someone, besides that criminology also has links and similarities with Criminal Law even though of course these two learnings are different. Criminology discusses many theoretical issues that can have an impact on

the body of legislation to implement a law. This criminology has a scope, namely people who commit crimes, the impact of a person committing crimes, preventing crimes, and efforts to heal people who commit crimes. The similarity between Criminal Law and Criminology, namely the correlation of perceptions that the general public is an arrangement of norm objects by state power not legal subjects who hold similar levels of state. Criminology has a contributing role to determine the limits of crime and punishable interactions.

The purpose of criminology is to open up the facts of the perpetrator's motives, while the criminal law side explains the relationship between the consequences of his actions. The relationship between criminology and criminal law is a complementary correlation, criminology seeks to gain insight into social issues in the field of crimes that occur against a society, and in other words the reasons for perpetrators to commit crimes. Criminal Law seeks to unite evil acts with the results of proof that someone committed a crime or crime. Criminal law places more on practice, therefore, criminal law is used until the emergence of an evil act, or in short emphasizes repressive actions.

Method

This examination is directed at normative legal research methods, as well as the approach used, namely the conceptual approach. The technique of collecting legal materials is carried out through focusing on library books to obtain secondary legal materials which are completed by conducting inventories and reviewing and quoting from books and related laws and regulations. Once the legal material is collected, it is recorded, summarized, as well as assessed on the issue. Then, at that time, a qualitative analysis was carried out, especially the discussion carried out by combining literature research and describing and checking. In addition, data is presented using informal methods.

Results and Discussion

1. Perspectives from Criminological Theory on Cases of Minors Committing Theft Crimes

Criminology is a unit of *the words crimen* and *logos*. *Crimen* and *Logos* are words that have the meaning of knowledge that studies a crime. A scientific discipline that studies crime from a social aspect. Before stepping into the criminology theory section, it discusses related to criminology which there are five schools, namely Classical, Neo-Classical, Critical and Social Defense or community defense.²

- 1) The Classics, founded by Jeremy Bentam, an English philosopher from 1748 to 1832. This school developed in England in the century of resistance. This school is in line with the teachings of hedonistic psychology. Hedonistic philosophy is a school that seeks that happiness is an important cause of human life. Bentam argues that the most important thing to inhibit crime is to punish it and to affirm various efforts for criminal behavior.
- 2) The Neo-Classical School establishes that the fundamental characteristics of humans are based on intelligence and rationality. Man is a creature who has a ratio and acts arbitrarily and has authority over his activities and is controlled by fear of the law. The characteristics of the Neo-Classical school are: First, freedom of will. Second, the softness of the confession. Third, the refinement of the doctrine of perfect responsibility in order to make it conquer punishment forms partial liability only. Fourth, the inclusion of expert testimony and testimony on court proceedings to affirm the measure of responsibility.
- 3) Critical School, namely the phenomenon of social crime as a social construction, means that if society defines certain actions as crimes, certain people meet the limits of crime. Critical criminology studies the

² I.S. Susanto, S. (2011). *Criminology*. Yogyakarta: Genta Publishing.

behavior of certain agents of social control as crimes. This school is divided into 2, namely interactionist flow and conflict flow.

- 4) The flow of Social Defense or community defense, namely First, is not deterministic. Second, it rejects rigid typologies of criminals that emphasize the uniqueness of human personality. Third, fully believe in moral values. Fourth, respect society's obligations to criminals and create a balance between society and criminals and refuse to use the security approach as an administrative tool. Fifth, it rejects the mastery of science and replaces it with a modern system of criminal politics.

A theory is a side of the explanation with regard to "*something*". However, one side of an explanation will be considered reasonable if it is related or influenced by a particular phenomenon in question in the whole field of knowledge. The frame of mind has an influence in the approach to studying crime. Schools or thoughts related to criminology mean a way of view as a reference or paradigm used by criminologists to analyze, explain the phenomenon of crime cases. In addition, technological advances that are increasingly in the future have an influence on the development of population and community structure. Crime exists because of several factors both directly and indirectly.³

Crime as a social phenomenon is affected by several aspects of life both in terms of economic, political or social. J.E. Sahepaty argues that crimes have a background in why they commit crimes, and that they arise from outside themselves. A person who commits a crime because there is a cause, then it is necessary to know what factors from within and factors from outside cause of action of these children. Factors from within or internal can also be caused by psychological conditions or a person's mental state is bad, tends to like to commit crimes, this is also caused by several factors, including:⁴

³ Azis Al Rosyid, Y. K. (2019). *Criminological Study of Child Cases as Perpetrators of Criminal Acts*; Abdulsyani. (2012). *Sociology of Criminality*. Bandung: CV.Remadja Karya.

- a. Religious factors, namely each individual is lacking in terms of religious knowledge which greatly affects his behavior. A person commits a crime because there is no religious value attached to him. For example, in Islam, it has been explained regarding noble morals and the prohibition of committing crimes in accordance with the rules taught in the Qur'an.
- b. Education factors, namely someone who lacks or even does not get education in his mindset and actions are lacking, because people who are not educated do not think long about his actions.
- c. Economic factors, namely if someone who lacks or is unable to meet the needs of life, can form a bad personality so that he commits deviant actions.

Another part of internal factors is also external factors that influence children to commit crimes, namely aspects of community life, family, macroeconomy. Theories of the causes of crime in criminology are numerous, including:

1) Biological theory

This theory looks at physiological factors and the physical state of a person from the moment of birth. Behavioral deviations due to genes and heredity. Inheritance of abnormal types of tendencies can give rise to sociopathic behavior. For example, congenital defects related to criminal traits as well as mental illness. Biological factors also describe that crime can be seen from the physical perpetrator of the crime, for example, it can be seen from certain biological characteristics such as asymmetrical face, thick lips, snub nose, and others.

2) Theory Psikogenesis

This theory views factors such as intelligence, personality traits, motivations, wrong attitudes, fantasies, rationalizations, false self-internalization, inner conflicts, controversial emotions and psychopathological tendencies as causes. Evil behavior is a reaction to psychological problems, such as in families destroyed by divorce or mistaken care because parents are too busy in their careers. Another

factor that causes crime is the psychology of a criminal, meaning that the perpetrator responds to various kinds of personality pressures that drive them to commit crimes.

There are many theories circulating as an effort to solve problems, but there are also many theories that are lagging behind because everything will continue to develop. Social Control Theory and Chaos Theory are well suited to analyzing why minors commit theft crimes. Chaos theory is a theory that focuses on the attention of small things, this is a parameter about calculating the incidence of evil. In addition, social control theory asserts that criminal behavior is part of the failure of social groups (family, friends). It can be said that crime is a consequence of a person due to failure to develop these prohibitions against unlawful behavior.

Social ties also have an influence as a cause of evil behavior, this consists of four elements. First, linkage is the continuity of a person paying attention to the wishes and expectations of others. They are insensitive to the demands of others and ignore existing norms. The more he cares and empathizes with his surroundings, the more he knows and pays attention to the necessity of behaving so that it will form a social bond that hinders deviant behavior. Second, meaningful entanglement is related to oneself by calculating the profit and loss of actions done by someone by calculating the profit and loss of committing deviant actions. Third, involvement refers to if someone is busy with activities then he will not have time to think about doing deviant actions. Fourth, values and norms that refer to the appreciation of community rules in everyday life that need to be obeyed. These four things must be applied in society so that deviant actions do not occur.⁵

A child who commits deviant actions means that the child is not good at understanding and perceiving internal and external factors. Therefore, Social Control Theory explains that if there is a crime, we look at it from the

⁵ Azis Al Rosyid, Y. K. ((2019)). Criminological Study on the Case of Children as Perpetrators of Theft (Study in Sukoharjo Area, Central Java, Indonesia). *Law Research Review Quarterly*

other side, namely why the person did not commit the crime. Look from a different perspective to know what we will be looking for. If viewed from the side of children who do not commit crimes because they do not have internal and external obstacles in their lives, therefore the child obeys and does not commit crimes because of the fulfillment of comprehensive needs. Parental attention and affection are important and necessary to have a positive influence on children. The existence of a person's relationship with his environment positively and well makes children or someone underage busy with positive things because there is no time to think about negative things.

2. The role of the law in providing protection for minors who commit theft crimes

In the public arena, demonstrations are classified as unlawful demonstrations, assuming they harm others and society, and hold direct or indirect consequences by ignoring the interests of others/society. Many activities are now and again carried out on all people without realizing the huge size of the impact on others and society, the thought process of the perpetrator is only for his own pleasure and interest. Generally, those who carry out demonstrations as minors, when they hold demonstrations, these young people do not know how much the results will be for others.⁶

Acts ordered as criminal demonstrations hold sanctions that are fully regulated in criminal regulations. Criminal law contains acts that are to blame, circumstances that can be punished, legal subjects can be punished, and criminals can be forced. Criminal regulations are also referred to as material regulations while criminal procedural regulations are also called formal criminal law, according to the Muladi framework of law enforcement, namely a legal organization that utilizes material criminal

⁶ Hakim, Abdul, and Tan Kamelo, *The Role of the National Police in Combating Theft by Children (Study in the Jurisdiction of the Medan City Resort Police)*, Mercatoria Journal 6.2 (2013), page 156

regulations, formal criminal regulations and criminal implementation laws.⁷

Children stealing is driven by internal and external factors that make children steal. Children are God-endowed resources that must be taught and cherished. Moral education must be used as the main reference in educating a child because in moral education children will be shown to be good or bad. After that a child will be faced with the evils of life on this planet and it is believed that with this moral training the child will be ready to face various difficulties in living life.

Teaching a child to a particular parent is not something simple, so it is believed that parents usually seek information, experiences or meetings from people who are considered to be able to find success in teaching their children. What's more, when managing a mean and boisterous child, it's best not to manage it in a rude, deep, and angry way, so guardians should move in that direction positively, offering unobtrusive and empowering guidance. In childhood, guardians who have a spirit of hope and empowerment improve children's psychological knowledge.

For example, a case in the Central Java region where there was a child who took jewelry and cash at a neighbor's house and was caught. So, the work that must be done by the parents of the perpetrators is to show an image with a sweet and smooth mentality to the child, when a child makes a malicious / harmful demonstration, as a parent, he is upset and needs to reprimand the child. However, this activity is not what deals with the problem and the child may try and become a delinquent. However, parents must give a subtle attitude, give understanding and forgive him. Parents try to ask their children, for what reason he does the activity, maybe the child is doing an activity that is not of his own volition, there may be elements that make the child do actions that hinder. According to the regulations, it

⁷ Romli Atmasasmika, *Criminal Justice System, Perspectives, Existentialism and Abolitionism*, (Bandung: Binacipta, 1996), p. 16

is quite possible due to destitution, the absence of parental affection and attention, as well as relationships with friends around him.

For the area around the perpetrator's area, do not give bad signs to children because their health can be disturbed mentally and developmentally. Try not to let a young person commit theft one day, do not be treated as abandoned, avoided, and often ridiculed by inappropriate names.⁸

Contrary to this foundation, a child must be nurtured by an adult who can think and have mental development. Article 20 of the Child Protection Law states that the state, government, regions, families, and parents are obliged and responsible for the implementation of child security. However, children who face the law are always victims because their activities are below the ability and obligation of adults.

The most common way to care for children struggling through the law is closely related to law enforcement itself, in the Juvenile Justice System. Studied from the perspective of the Criminal Justice System, in Indonesia there are 5 (five) institutions that are sub-systems of the Criminal Justice. The terminology of the five institutions is known as the Panca Wangasa law enforcement, namely the Police, Prosecutor's Office, Court, Prison and Advocates.⁹

Legal protection for children in the legal cycle is carried out starting from the level of investigation, investigation, prosecution, examination in court hearings to the implementation of the court decision. During the judicial process, the freedom of the child must be safeguarded by the relevant regulations and therefore must be resolved reliably by those who are concerned about solving the problem of the delinquent child.¹⁰

⁸ Azis Al Rosyid, Y. K. ((2019)). Criminological Study on the Case of Children as Perpetrators of Theft (Study in Sukoharjo Area, Central Java, Indonesia). *Law Research Review Quarterly*

⁹ Abrianti, Dirgahayu, *Criminological Review of Violent Theft Crimes Committed by Children (Case Study at Lumajang Resort Police)*, *Dynamics: Scientific Journal of Legal Sciences* 26.7 (2020)

¹⁰ Pinging V Tambalean, *Law Enforcement for Theft Committed by Minors*, *Lex et Societas*, Vol 1. No 2, 2013 pp 20-21.

Theft committed against minors can be interpreted as special theft, more precisely theft in some ways so that it is lighter, but in the regulation of criminal regulations it is very likely to be undermined by the most extreme punishment that is higher, namely above imprisonment of five years or more than the discipline violated under Article 362 of the Criminal Code. This is regulated in Article 363 as well as Article 365 of the Criminal Code.

The use of consent for a monumental offense for a misdemeanor of theft, shall consider leniency regarding the usefulness of the indicted minor child, in particular the limit of half of the most extreme danger of detention for adults, and support for activities, for example, returning to guardians, guardians, non-permanent parents, or surrendering to the state for schooling, training, as well as work preparation. Both permits are considered to have a deterrent effect on minors who commit theft. Children are still fragile but still need a sense of security, so the danger of detention and sanctioned activities is the last choice in giving blessings to children who carry out criminal protests.¹¹

Perpetrators of minors who commit theft offences, whether they come from well-off families or underprivileged families, are still offered the opportunity to seek diversion. The state does not see the origin of perpetrators who come from poor families or underprivileged families, the perpetrators will be dealt with in a similar way, more precisely diversion will be sought as well. Because in the preparation of the Juvenile Criminal Justice System Law No. 11 of 2012 it is in accordance with the guidelines for equity under legal supervision.¹²

To obtain an ideal diversion process for theft crimes committed by children, especially through obtaining attestation for the person concerned

¹¹ Hendriko, Jukfa, and Fitriati Fitriati, *Application of criminology as an auxiliary science in the investigation of criminal acts committed by children at the Agam Police Station, UNES Journal of Swara Justisia* 5.1 (2021)

¹² Azis Al Rosyid, Y. K. ((2019)). Criminological Study on the Case of Children as Perpetrators of Theft (Study in Sukoharjo Area, Central Java, Indonesia). *Law Research Review Quarterly*

and/or the victim's child's family as well as the ability of children and their families as referred to in Article 9 paragraph (2) of Law No. 11 of 2012. Article 6 of Law Number 11 of 2012 on the Juvenile Criminal Justice System, Diversion aims to:

- 1) Achieving harmony between victims and children
- 2) Resolving children's cases outside of legal interaction.
- 3) Protecting children from the harshness of freedom
- 4) Encourage local areas to take part; and
- 5) Instilling a sense of duty in children.

Therefore, the resolution of cases including children as perpetrators has a very high opportunity to be resolved at the examination level and child perpetrators can be avoided from the criminal justice law enforcement framework.

Law No. 11 of 2012 on the juvenile criminal justice system which is an amendment to Law No. 3 of 1997 on juvenile courts with the principle of double track system. The meaning of the double track system is a two-track framework in which in addition to managing criminal approvals, it also directs activities. Regarding the coercion of delinquent children, the Juvenile Criminal Justice System Law has regulated it, especially in Article 71 where the main discipline for children who commit criminal demonstrations is criminal warning, criminal with conditions, and additional crimes in the form of fulfilling customary obligations and deprivation of profits obtained from criminal acts.¹³

to handle cases of children struggling with the law. Sanctions for activities under the Juvenile Justice System Law are regulated under Article 82, through the return of parents/guardians, surrender of a person, treatment in hospitals, commitment to carry out formal education/preparation held by public authorities, treatment at the Sanctions and Victims Protection Institute (LPSK), revocation of driver's

¹³ Sihotang, Ami Risana, *Review of Criminology on Children Who Commit Theft Crimes (Study at the Special Child Development Institute (LPKA) Class IA Tanjung Gusta Medan)*, (2016).

licenses and reparation for crimes committed. Sanction activities are more instructive, not retaliatory in order to carry out extraordinary evasion, especially the goal to be achieved, which is to bend, straighten, and make the criminals themselves unfit to do wrong deeds again.

In the Juvenile Criminal Justice System Law, judges' efforts to address cases of juvenile delinquency are underlined in two ways, namely:

- a. Restorative Justice, namely the settlement of criminal cases including perpetrators, survivors of perpetrators / victims, and other associations in order to seek fair arrangements with each other through underlining the rebuilding to its unique state, and not contradictory (Article 1 point 6)
- b. Diversion, especially the exchange of solving child cases from the law enforcement cycle to interactions outside the law enforcement framework (Article 1 Number 7). Basically, this transfer is carried out at the level of examination, prosecution, and assessment of child cases in court and is resolved because of an unlawful act that should be detained under 7 (seven) years and not a re-recording of a crime (recidive). On the other hand, the main essence of diversion is to achieve harmony between victims and children, resolve child cases outside the circle of law, keep children away from deprived freedoms, empower regions to take part and instill a sense of obligation in children.

The place where children struggle against the law in Indonesia has a reasonable place, with an extraordinary set of legal guidelines for children who fight against the law, which for example expressly directs the enactment of Law No. 11 of 2012 on the Juvenile Criminal Justice System. In addition, Indonesia also holds regulations that are expressly intended to protect children, such as Law No. 23 of 2002 on Child Protection.¹⁴

¹⁴ Azis Al Rosyid, Y. K. (2019). Criminological Study on the Case of Children as Perpetrators of Theft (Study in Sukoharjo Area, Central Java, Indonesia). *Law Research Review Quarterly*

Conclusion

Crime is a social phenomenon that goes on endlessly, taking into account the increase in crime in addition to the progress of human existence. Crime as a social specialty is more influenced by various parts of life in the public eye as political, economic, socio-cultural issues, and matters that correlate with protection and security efforts. Theft has a high frequency of offenses committed in the ongoing period. The crime of theft is not only carried out by adults, but children and minors also carry out theft. A person who commits the crime of theft must understand the internal variables caused by the state of ethics of bad individuals or people (negative), so that in general they will commit violations and the external factors they carry. About external factors or around them that make someone constrained to commit a crime.

From the results of research related to Social Control Theory in criminology, that, children, or someone underage tend to commit violations that are limited by regulations, not just adults who tend to commit offenses. A child who commits theft or deviant actions is the result of association around him, such as family, the surrounding environment, school, and friends who neglect to follow and make the situation only friendly. Attention from parents to children is very important and can contribute positively and encourage a sense of warmth and respect for children for their parents. Likewise with the local community, his close friends are also very supportive of the person to do good deeds. The association of a person causing busyness in a particular activity is also very interesting in the way children behave. Because in Social Control Theory, there are four important components, to be more specific: affectionate case, responsibility, involvement, and faith.

A child or a minor who considers himself to have bad internal and external factors can commit deviant acts (crimes). Because of the consequences of this review, in the life of each child, one child with children from different families is unique. Children who try to commit theft crimes are children who have internal problems that affect a person's condition due

to religious variables, educational variables, economic variables, and family variables. Then external variables, such as the condition of the child's family, society, and full macro needs that develop.

Furthermore, Social Control Theory expects that in order to interpret the act of crime, then at that time it can be sought clarification from the act of not committing the crime, when we need to control the commission of crime, not revealing or messing with evil, but looking for clarification why individuals can be subject to the law, what is it? So if Social Control Theory is associated with the impact of this review, then at that time, children who do not commit theft are children who do not like outside and inside factors. Children who are filial and do not commit theft are children whose needs are fully met. About children who hold theft demonstrations because they have problems both inside and outside of the child.

Children are synonymous with weak, unstable figures, and need assistance. Contrary to this foundation, a child must be nurtured by an adult who can actually think and have mental development. Article 20 of the Child Protection Law states that the state, government, regions, families and guardians are obliged and responsible for the implementation of child security. Theft committed against minors can be interpreted as special theft, especially theft in some cases so that it is lighter, but in criminal regulation arrangements tend to be compromised with the most extreme higher penalties, namely above the prison sentence of 5 (five) years or more criminal.

Legal protection for children in the legal cycle is resolved starting from the level of investigation, investigation, prosecution, examination to the implementation of court choice. During the legal cycle, privileges must be protected by material regulations and therefore must be resolved reliably and attentively by the parties concerned through the management of deviant children's issues.

A crime committed against a child for the individual in his time has the reasons on which the demonstration was completed beside him is also called

an inspiration containing elements of hope, want, need, which are then recognized from birth. The offense of theft committed against children does not matter what variables help children who stage deviant demonstrations. A child who has bad external and inner elements will generally be able to commit deviant acts (crimes) such as theft.

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