CHILDREN'S CRIMINAL RESPONSIBILITY THAT DOING CRIMINAL ACTION WITH VIOLENCE (CASE STUDY DECISION NUMBER 6/PID.SUS-ANAK/2017/PT.MDN)

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ABSTRACT: Violence often occurs with children, which can be harmful, dangerous and frightening to children. Children who are victims of violence suffer losses, not only are material, but also are immaterial such as emotional and psychological shocks, which can affect the future life of children. The perpetrators of violence against children may be parents, even children themselves. The existence of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, reinforces the need to impose sanctions on perpetrators of child crimes, as well as to encourage concrete steps to restore physical, psychological and social children. This needs to be done to anticipate children (crime victims) in the future not to be the same perpetrators. Therefore the existence of this law is to become a new hope in protecting children. It is also a question for us, so that in this paper the writer raises the title "Criminal Responsibility of Children Who Conduct Criminal Crimes With Violence". To support this writing, the method used is a normative judicial case analysis, based on the legal event of the Supreme Court Decision Number 6 / PID.SUS-ANAK / 2017 / PT.MDN with the right violence, and if it is associated with Law number 35 of 2014 must accept the applicable punishment.

Keywords: Theft by force, children, criminal action

1. INTRODUCTION

Indonesia is a developing country. As from the development it is positive and some others are negative. The Government's efforts to uphold the law and eradicate corruption are positive efforts. On the other hand, due to the flow of globalization and modernization, resulting in various social problems and criminal issues that continue to emerge. As Barda Nawawi said: "...that from a political point of view, a strategic problem that must be addressed is to deal with problems or social conditions that can directly or indirectly cause or flourish crime. This means, Handling or the cultivation of these problems is precisely the key and strategic position seen from the perspective of criminal politics. "

Children are the next generation. Their presence is solace for every parent. Every parent expects children they can become children who are useful for their family, religion, nation and country. But, what happens if a child actually does things that are contrary to moral norms and religious norms? Of course this will be very sad for the parents and hurt the future of the child. Today, there are a lot of children involved in criminal acts, both children as victims of crime

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1 Barda Nawawi, Bunga Rampai Kebijakan Hukum Pidana,(Jakarta:Kencana,2011), hal. 11.
and children as perpetrators. One of the triggers of this crime is due to lack of parental supervision of the child itself and too much freedom for the child.

Violence often occurs with children, which can be harmful, dangerous and frightening to children. Children who are victims of violence suffer losses, not only are material, but also are immaterial such as emotional and psychological shocks, which can affect the future life of children. The perpetrators of violence against children may be parents, even children themselves. During the Wetbook van Strafrecht, it was formed in 1881, in which people could meet articles 38 and 39 which reflected the opinions of their constituents, as if the children could not be prosecuted according to criminal law, if they had reached the age of ten do something criminal.

If the perpetrator of the crime turns out to be a child who is ten years of age or older but has not yet reached the age of sixteen, then the criminal judge must investigate whether the perpetrator can make an oordeel desonderscheids or not. make an assessment of his actions, namely whether his actions can be justified or not. Besides the normative juridical approach, criminal law policy also requires a factual juridical approach that can take the form of a sociological, historical and comparative approach; even requires a comprehensive approach from various other social disciplines and integral approaches to social policy and national development in general.

When discussing social change in society and achieving legal objectives means examining changes in social life in a society that is oriented towards the process of law formation in achieving its objectives.

In order to produce quality children and will later be useful in people's lives, it is also one of the reasons for the existence of legal protection laws that regulate children has existed since 1925 during the Dutch colonial period, with the birth of staatsblad 1926 No. 647 Juncto Ordinance 1949 No. 9 which regulates restrictions on the employment of children and women. The existence of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, reinforces the need to impose sanctions on perpetrators of child crimes, as well as to encourage concrete steps to restore physical, psychological and social children. This needs to be done to anticipate children (crime victims) in the future not to be the same perpetrators. Therefore the existence of this law is to become a new hope in protecting children.

Problems are the basis of a frame of mind so that there are problems, therefore some problems are formulated into the subject matter of this article. The problem in this article is How to Account for the Criminal of Children who commit crimes of theft by force (Studi kasus putusan nomor 6/pid.sus-anak/2017/pt.mdn)? The research objective stated in this study is to find out how the criminal liability of children who commit crimes of theft by violence (Studi kasus putusan nomor 6/pid.sus-anak/2017/pt.mdn).

2. RESEARCH MATERIALS AND METHODS

In an effort to complete this legal research material, this research is a normative juridical research using primary and secondary legal materials.

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2 P.A.F. Lamintang, Hukum Penitensier Indonesia,( Bandung;Armico,2005) hal, 169.
1. Primary Legal Material
   The primary legal material in this study is Law Number 35 of 2014 concerning Child Protection and the decision of the Supreme Court Number 6/pid.sus-anak/2017/pt.mdn concerning criminal acts of theft by force.

2. Secondary legal material
   It is a legal material that supports and provides an explanation of primary legal materials in the form of scientific works, theses, articles of legal experts, internet, a large dictionary of Indonesian, legal literature on child protection and a legal dictionary.

3. DISCUSSION

A. Definition of Criminal and Criminal Law

Crimes have diverse definitions and some experts provide understanding based on their opinions. Sudarto provides a criminal understanding as suffering that is intentionally imposed on people who commit acts that meet certain conditions, while Roeslan Saleh defines crime as a reaction to the offense, and this manifests in a misery that the state deliberately inflicts on the offender.\(^5\) Whereas on the other hand Criminal Law in criminal law is a tool and not the purpose of criminal law, which if carried out is nothing but a form of suffering or discomfort for the person referred to as a convict.\(^6\)

Van HAMEL as quoted by Lamintang, een bijzonder leed, tegen den overtreder van een door den staat gehandhaafd rechtsvoorschrift, op denkelen ground van die overtreding, van wege den staat al handhaver der openbare rechtsorde, door met met recharge belaste gezaguit te spreken the translation criminal is a specific affliction, which has been imposed by a competent authority to impose a crime on behalf of the state as the person in charge of general legal order for a violator, namely simply because the person has violated a law that must be enforced by the state.\(^7\)

The definition of prosecution according to Sudarto is a synonym for the word condemnation. Punishment comes from the word legal basis, so that it can be interpreted as establishing a law or deciding about the law (berechten). Establishing a law for an event does not only concern the field of criminal law, but also civil law. Because this article revolves around criminal law, the term must be narrowed to the meaning, namely the punishment in a criminal case, which is often synonymous with punishment or criminal giving or imposition by a judge. Punishment in this case has the same meaning as sentence or veroordeling.\(^8\) Criminal theory is commonly known in the Continental European legal system, namely the absolute theory, relative theory and combined theory. Such division of criminal theory is different from the criminal theory known in the Anglo Saxon legal system, namely retribution theory, incapacitation theory, deterrence theory, and rehabilitation theory.\(^9\)

\(^6\) Adami Chazawi, Pelajaran hukum pidana, (Jakarta: Raja Grafindo Persada,2010), hal. 24.
\(^7\) P. A. F. Lamintang, hukum penitesier, (Bandung: Armico,1982), hal. 47.
\(^8\) Ibid., Hal. 49.
\(^9\) Loc. Cit., Dasar-dasar hukum pidana, hal 186
B. Understanding of Children

There are various kinds of understanding about children, one of which is according to law number 35 of 2014 says that a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb. Similarly, child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and dignity, and get protection from violence and discrimination. Children must be protected so that they do not become victims of anyone's actions (individuals or groups, private or government organizations) either directly or indirectly. In essence, children cannot protect themselves from a variety of actions that cause mental, physical, social harm in various fields of life and livelihood.10

C. Criminal liability of a child who commits a crime of theft by force (decision case number 6/pid.sus-anak/2017/pt.mdn). Before the author discusses the form of criminal responsibility for the perpetrator of a crime in the case of the decision number 6/pid.sus-anak/2017/pt.mdn are as follows:

1. Identitas Terdakwa
   a. Nama lengkap anak: MUHAMMAD ALDI
   b. Tempat lahir: Medan
   c. Umur/tanggal lahir : 15 Tahun/ 01 Juni 2001
   d. Jenis kelamin : Laki-laki
   e. Kebangsaan : Indonesia
   g. Agama : Islam
   h. Pekerjaan : Pelajar
   i. Pendidikan : SMK Kelas 1

2. Case Position

Criminal number number 6/pid.sus-anak/2017/pt.mdn about a case of a crime of theft and violence committed by Muhammad Aldi with his other friends who were named together by 4 (four) other friends named ARIL, ADIT, DEWA and JORDAN (the last four are DPOs) Wednesday, October 12, 2016 at approximately 14.00 West Indonesia Time or at least one other time in October 2016 at Dr. Mansyur near SMK 8 Kel. PB. Selayang Kec. Medan Selayang or at least in another place that is still within the legal area of the Medan District Court has taken 1 (one) Unit Handphone and 1 (one) red Helmet LTD which is wholly or partly owned by Witness Julianda, which actions were preceded, accompanied or followed by violence or threats of violence against a person with a view to preparing or facilitating the theft, or in the event of being caught red-handed to allow himself to escape or another participant, or to retain control over the item stolen by two or more people allied, the actions taken by the Defendant and his friends are as follows: 1. Previously on Wednesday 12 October 2016 at approximately 14.00 WIB the Defendant and his friend named ARIL rode to the USU Pavilion and after arriving at the USU Pavilion, The defendant and ARIL met n DEWA and ADIT, then ARIL said "Play Yuk" then the Defendant and his three friends left by riding a Motorcycle and then when the Defendant was still coming JORDAN followed so that

10 Maidin Gultom, Perlindungan Hukum terhadap Anak dan Perempuan,(Medan;Refika Aditama,2012), hal. 69
the five Defendants walked around the USU Campus, and at that time the Defendant saw Witness Julianda (The victim) was sitting on a motorcycle on the side of the road and the defendant went straight to the victim and at that time DEWA told the victim "Is this what hit your brother?" Then the defendant and other defendants said "Yes..iya..iya ", After that the Defendant moved to a Victim Motorcycle and then the Defendant took the victim away, where when he left, the Defendant was hitched to the victim heading to SMK 8 Medan and near Medan 8 VOCATIONAL SCHOOL, then the Defendant took the Victim's Cellphone while ARIL took the Victim's Helmet, and then the Defendant together with other friends of the Defendant mentioned above brought the Victim to the Pool Selayang Pool and when I arrived at Selayang Swimming Pool, JORDAN hit the victim and then the other defendants also beat the victim while the defendant was sitting on a motorcycle, and after that the defendant and friends of the defendant took the victim to Jalan Bunga Lotus and after arriving at Jalan Bunga Teratai, ARIL threatened Korband by using Sharp Weapons and after that the Defendant along with the Victim and ARIL went to Simpang Pos but when they were descended from the Flyover of Medan Post intersection, the victim came to the Police Patrol officer and immediately reported Theft with The violence, while the other four defendants escaped. That ARIL plays a role that invites to commit theft by force and ARIL that threatens the victim by using sharp weapons, the Defendant takes the victim's cellphone and is on a victim's motorcycle, JORDAN, DEWA and ADIT who are beating the victim.

The Defendant's actions with his friends are mentioned above, the Witness Julianda felt that she had been harmed in the amount of Rp. 1,000,000, - (one million rupiah). As regulated and threatened with punishment in Article 365 paragraph (2) of the 2nd Criminal Code.

Regarding the criminal provisions that will be imposed on the defendant and ii is a form of criminal responsibility that must be carried out and must be carried out by the defendant as follows:

1. Declare the Defendant legally and convincingly proven guilty of committing a crime of STEALING WITH VIOLENCE TOGETHER;
2. To impose a criminal sentence on the Child of MUHAMMAD ALDI therefore with imprisonment for 10 (ten) months;
3. Ordering that the criminal does not need to be served by the child, unless in the future based on the decision of the Judge the child is found guilty of an act that can be convicted before passing the probation for 1 (one) year, and the MUHAMMAD ALDI Child is prohibited from smoking as long as he is a vocational school student.

Charging the child to pay court fees in the amount of Rp. 2,000, - (two thousand rupiah);

4. CONCLUSION

Based on research conducted by the author, the authors conclude that the form of criminal responsibility for the perpetrators of criminal acts of theft by violence (Study of Decision Number 6/PID.SUS-ANAK/2017/PT.MDN). Regarding the form of criminal responsibility that must be borne by the defendant, he must carry out the prison sentence due to his actions. The defendant must be responsible for the imprisonment in the form of imprisonment for the defendant for 10 (ten) months. And the writer gives advice to the
government, especially to every parent to educate their children so that they are not affected from the negative side in the community, and directs every child not to do criminal things.

5. REFERENCES