

Research Article

Children in Conflict with the Law (Study in Correctional Center Medan)

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Introduction

Children are living beings who have limitations and need protection from others. Definition of a child in criminal law, a child in conflict with the law hereinafter referred to as a child who is 12 (twelve) years old, but not reach 18 (eighteen) years old who is suspected of committing a crime. In the United Kingdom children age from zero years to 18 years.¹ In the United States, namely New York and Vermont, someone who has not reached the age of 16 is still referred to a juvenile court.²

In Scotland the child is a person aged 7 years to 15 years old so that someone is tried in a juvenile justice. In South Australia children aged 8 years to 18 years old and in Canada someone is under 12 years old.³

There are differences in understanding of children of each country, due to differences in social influences of child development, because the social and cultural and economic activities of each country are different. Even though things have an influence on the level of maturity of a child. It shows that social influences, social and cultural activities must be the concern of the government and society to prevent children from becoming delinquent. According to Nicholas McBala⁴ childhood is a period of life development, also a period of limited ability to harm others. Status and condition of children in Indonesia is paradoxical. Ideally, children are the heirs and progressors of the nation's future. In real terms, the situation of Indonesian children is still and continues to deteriorate. The world of children that should be colored by play activities, learning and developing their interests and talents for the

future, the reality is colored by dark and sad data.⁵ Children still and continue to deal with the law both as victims and as perpetrators. This condition requires special attention from all components of society and the government to protect and supervise the growth of Indonesian children. So that children are not faced with the law because of doing deviant actions. The direction of legal policy aims to make law a rule that provides protection for the rights of citizens and guarantees future life in the future.⁶

B. Delinkuen actions

The term delinkuen comes from delinquency, which means child delinquency, juvenile delinquency, youth delinquency and delinquency. The word delinquency close relate with the word juvenile, because delinquency is closely related to the child, while the word delinquent act is defined as an act that violates the basic norms of society. These actions, if done by a group of children, are called delinquency⁷. So delinquency leads to violations of rules made by certain social groups, not just state law.⁸

According to Anthony M. Platt⁹ the definition of delinquency is a child's act which includes (1) an act of crime if it is carried out by an adult (2) an act that violates the rules of the state or society (3) immoral behavior, truancy, rude and profane words, growing on the streets and association with bad people that allows bad influences on children in the future.

There are three definitions of delinquency they are :¹⁰

¹Bob Franklin, Capter 1: *The case for children's rights: a progress report*, Bob Franklin, et.al, *The Handbook of Chidren's Rights, Comparative Policy and Practice*, Rouletge, London and New York: 1995, hal. 8.

²Peter C. Kratcoski and D. Kratcoski. (1979). *Juvenile Delinquency*. New Jersey: Prentice-hall.Inc. Englewood cliffs, hal. 2.

³Nicholas M.C. Bala dan Rebecca Jaremko Bromwich Chapter 1, Introduction: An international perspective on youth justice dalam buku Nicholas M.C. Bala, et al. (2002). *Juvenile Justice System an International Comparison of Problem and Solutions*. Toronto: Eduacational Publishing Inc, hal. 4.

⁴Nicholas M.C. Bala dan Rebecca Jaremko Bromwich et. al. *Loc.Cit.*, hal. 2.

⁵Abu Huraerah, *Child Abuse (Kekerasan Terhadap Anak)*, Edisi Revisi, Sptember 2007, NUANSA, Bandung, hal. 21

⁶Marlina, *Peradilan Pidana Anak di Indonesia Pengembangan Konsep diversi dan Restorative Justice* Cetakan kedua, Refika Aditama, 2012, hal. 1.

⁷Richard A. Cloward and Lloyd E. Ohlin. (1960). *Delinquency and Opportunity Theory of Delinquent Gangs*. New York: The Free Press. A. Division of Macmillan Publishing co.Inc, hal. 2-5. Lihat juga Donald J Shoemaker. *Op.Cit.*, hal 3.

⁸Lihat Peter C. Kratcoski and D. Kratcoski. (1979). *Juvenile Delinquency*. New Jersey: Prentice-hall.Inc. Englewood Cliffs, hal. 2.

⁹Jack E Bynum dan William E Thompson, 2002, *Juvenile Delinquency a sociological appraach*, boston : A Peason Education Company, Allyn and Bacon, Fifth edition, hal. 9

¹⁰ *Ibid.*

1. the legal definition (definition that focuses on the actions of a child called delinquency).
2. the role definition (definition that focus on the perpetrators of actions that are classified as children or delinquent).
3. the societal response definition (definition on the basis of public response is to focus on the assessment of the community as members of a community group that acts against the perpetrators of the act and ultimately determines whether the perpetrator and his actions are delinquency or not).

According Paul Tappan "juvenile delinquent is a person who has been adjudicated as such by a court of proper jurisdiction thought he may be no different, up who are not delinquent."¹¹ meaning that juvenile is the behavior of a child who violates the norms determined by the surrounding environment and these behaviors can be ensnared by the authority of the child court¹²

According Soedjono Dirdjosisworo child abuse includes 3 meanings, namely:

- a. Actions committed by adults are criminal acts (crimes), such as theft, robbery and murder.
- a. Children who deviate from the norms of groups that cause disturbances such as speeding, group fights and so on.
- b. Children whose lives need help and protection, such as abandoned children, orphans and children who are left to wander can develop into bad people.¹³

Purnianti defines juvenile delinquency based on a sociological perspective, in three categories:

- a. Legal definition, emphasizing action/treatment that is contrary to legally classified norms.
- b. Definition of roles, with this emphasis on the perpetrator, adolescents whose roles are identified as delinquency.
- c. Definition of society, this behavior is determined by the community.¹⁴

The state of the social and cultural structures around it is the cause of delinquency. The development of the structure of the surrounding community and family such as the conflict of parents causes delinquency. Even delinquency occurs because of social rules that cannot be fulfilled by children so that they

¹¹ Jack E Bynum dan William E Thompson, 2002, *Juvenile Delinquency a sociological approach*, boston : A Peason Education Company, Allyn and Bacon, Fifth edition, hal. 9

¹² Peter C. Kratoski and Lucille Dunn Kratoski. (1979). *Juvenile Delinquency*. New Jersey: Prentice-Hall-Inc. Englewood Cliffs, hal 2-3 paragraf 1-3.

¹³ Soedjono Dirdjosisworo. (1983). *Penanggulangan Kejahatan*. Bandung: Alumni, hal. 150.

¹⁴ Purnianti. (1993). *Garis Besar Analisa Situasi Sistem Peradilan Pidana Anak di Indonesia*, Seminar sehari Peradilan Anak Mengembangkan Diversi dan Restorative Justice, 11 Desember 2003. Jakarta, Hotel Intercontinental M. Plaza, hal. 33 Lihat juga yang dikemukakan Jack E. Bynum dan William E. Thompson. *Op. Cit.*, hal. 9.

are considered to violate the norms set by a group in the surrounding social community.

C. Legal Protection of Criminal Actors

A delinquent desperately needs legal protection. This protection is necessary because the child is a part of society that has physical and mental limitations.

The development of child protection occurred in all countries, in Chicago since the establishment of juvenile justice in Illinois in 1899 with the separation of juvenile and adult justice processes aimed at protecting children from the application of adult law.

The principles of protecting children in the criminal justice system are regulated by a number of international and national conventions. Among them:

1. Universal Declaration Of Human Rights,,
2. International Convenan on Civil and Political Right.
3. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
4. Convention on the Rights of the child,
5. The Beijing Rules.
7. United Nation Guidelines for the Preventive of Juvenile Delinquency (The Riyadh Guidelines).¹⁵

Nationally, protection of children who are dealing with the law is regulated in:

1. Constitution of the Republic of Indonesia of 1945.
2. Law No. 4 of 1979 concerning Child Welfare
3. Law No. 39 of 1999 concerning Human Rights.
4. Law No. 2 of 2002 concerning the Police.
5. Law No. 35 of 2014 concerning Child Protection.

Child protection according to Anthony M. Platt the principle:

1. Children must be separated from adult criminals.
2. The child must be kept away from the poor environment.
3. The actions of bad children must be attempted to be corrected rather than punished
4. The prison sentence is not determined for the child.
5. Child punishment as a last resort.
6. Prison for children is avoided from the form of bad physical suffering.
7. The improvement program carried out is more religious, educational, employment, not exceeding basic education.
8. The child prisoner is given a better teaching which is beneficial and directed to the outside world.

The state, central government, local government, family and parents or guardians are obliged and responsible for the implementation of child protection. State governments and local governments are obliged and responsible to respect the fulfillment of children's rights regardless of ethnicity, religion, race, class, sex, ethnicity, culture and language, legal status, birth order and physical and / or mental condition of the child. To ensure the fulfillment of the rights of the state, it is

¹⁵ Maidin Gultom, *Perlindungan Hukum Terhadap anak dengan Sistem Peradilan Pidana Anak di Indonesia*, cetakan Ke empat Revisi, Refika Aditama, hal. 61.

obligatory to fulfill, protect and respect the rights of children by means of the Government's obligation and responsibility in formulating and implementing policies in the field of the implementation of child protection.¹⁶

Child legal protection is a protection that guarantees the rights and obligations of children. Child protection law in the form of customary law, civil law, criminal law, criminal procedure law, other regulations concerning children. Child protection, concerning various aspects of life and livelihood, so that children can truly grow and develop naturally in accordance with their human rights.¹⁷

According to Bismar Siregar stated that the issue of protection for children is one side of the approach to protect Indonesian children. The problem is not only being able to approach juridically, but also need a broader approach, namely economic, social and cultural.¹⁸

D. Delinquency Factors

Childhood is a time that is very vulnerable to action, children are very vulnerable with various desires and hopes to achieve something and do something. A child in doing something does not / less assess the consequences of his actions. According to Joy G. Dryfoos in America there are some very important needs to make a child reach adulthood, that is¹⁹:

1. Search for identity.
2. Search for a personality value.
3. Additional conventions needed for adults such as problem solving and decision making.
4. Additional skills are needed for social interaction.
5. Achieving emotional freedom from parents.
6. The ability to negotiate between the need for personal achievement and the need to get peer support.
7. The need to experiment (try) with moral behavior and activities that are free.)

These needs can not all be fulfilled by a child alone but need help from adults. Parents/adults have an obligation to help children physically, economically and psychologically in the child's mental development. Children cannot meet these needs, children are hampered by their development and can even cause mental disruption, eventually becoming delinquency actors. According to Richard Dembo, et al. children who experience a lot of difficulties such as difficulty in familiarizing themselves in the family, being economically depressed or low economic people are at higher risk of being delinquency actors than a child who suffers from physical and

¹⁶ Barda Nawawi Arif, *Bunga Rampai Kebijakan hukum Pidana*, Bandung, Citra Aditya Bakhti, hal 35.

¹⁷ Irma setyowati sumitro, *Aspek Hukum Perlindungan Anak*, Bumi Aksara, Jakarta, 1990, 15

¹⁸ Bismar siregar dkk, *Hukum dan Hak-Hak Anak*, Rajawali, 1986, hal. 22.

¹⁹ Joy G. Dryfoos. (1990). *Adolescents at Risk, Prevalence and Prevention*. New York:Oxford University Press, hal. 25 yang dikutip dari Clemens Bartollas, *Op.Cit.*, hal. 70

sexual deprivation.²⁰

Other factors lack education and honesty and tend to be involved in drug and alcohol abuse and actions that society²¹ does not like and drop out from school).²²

There are seven personal characteristics to predict the behavior of children who are at high risk of delinquency perpetrators, namely:²³

1. Age
2. Psychological variables;
3. School performance,
4. Home adjustment,;
5. Drugs and alcohol use,
6. neighbourhood;
7. Social adjustment of peers

In addition there are several social factors that cause delinquency, namely:

1. Gender and delinquency behavior.
2. The influence of a child's playmate.
3. Lack of facilities for playing and learning that are in accordance with the child's psychological development
4. Broken home.²⁴

Broken home relationships with children's misbehavior, according to L. Edward Wells and H. Rankin²⁵:

1. Delinquency is 10-15% higher than not broken home
2. Broken home is stronger in minor crimes against child offenders.
3. broken home because parental divorce is stronger than because of the parents who died.
4. Child age at the time broken home does not affect delinquency.
5. Broken home has an influence on boys or girls

Psychological and physical development of children that influence children do two delinquency, namely:

1. Social background²⁶
2. Attitude
 - a. Children who don't pay attention.
 - b. Looking for public attention by making trouble that attracts the attention of many people.

²⁰ Clemens Bartollas, *Op.Cit.*, hal 70, yang dikutip dari Richard Dembo, et. al. (1994) *Development and Assessment of a Classification of High risk Youth*. Journal of Drug Issues 24 (winter-spring, hal 26

²¹ Ibid,

²² M.Le Blanc. (November 1990). *Family Dynamics, Adolescent Delinquency and Adult Criminality*. Colorado: Paper Presented at the Society for Life History Research conference, Keystone. hal. 7.

²³ Clemens Bartollas. *Op.Cit.*, hal. 71.

²⁴ Clemens Bartollas, *Op.Cit.*, hal 70-71

²⁵ L. Edward Well dan Joseph H. Rankin. (1991). *Families and Delinquency:A Meta –analysis of the Impact of Broken Homes Social Problems*. London: hal 87-88.

²⁶ Clemens Bartollas, *Op.Cit.*, hal 84.

- c. Feeling unfortunate and there is nothing that is afraid of losing.
- d. Apply yellowness in various ways.
- e. Groups can be used as a place to forge emotions and development.
- f. The existing system does unfairly to children, so there are no rules/norms that must be obeyed.
- g. Material deficiencies)

According to 2018 research results show that the factors causing children to do delinquency are: Influence of relationships / peers, lack of attention from parents and family, Broken home (messy family), Economy (education), Factors directly or not important children's intelligence. These factors exist from birth like intelligence.²⁷ therefore it is necessary to improve the quality of intelligence in children. Children who are less intelligent will have difficulty controlling their emotions and desires, so they can easily fall into crime, even if they are not directly responsible for delinquency.²⁸

According to S. Freud all people have 3 components of personality called: id, the ego, and the superego. Id is the basic will, human motivation and aspects of human soul desire to determine action. Ego setting potential IDs from destructive influences. The ego shows more ratios and mental health in humans. Superego is a restraint from within, derived from social norms and existing sanctions. Often called the feelings of the human heart, sensitivity to the wrong to contemplate violations of the rules)

While Hutman in Muhidin stated that children's needs were:

1. Love parents
2. Emotional stability
3. Understanding and attention
4. Personality growth
5. Creative encouragement
6. Fostering intellectual abilities and basic skills
7. Health care
8. Meeting the needs of food, clothing, shelter that is healthy and adequate
9. Constructive and positive recreational activities
10. Maintenance, care and protection²⁹

According to Edi Suahrto, in Abu Huraerah stated that failure in the process of fulfilling these needs would have a negative impact on the physical growth and intellectual, mental and social development of children. Children will not only experience physical vulnerability due to nutrition and poor health quality, but also experience metal barriers, lack of reasoning power and even maladaptive behaviors, such as autism, naughty, unruly, which will later encourage them to

²⁷Donald J. Shoemaker, *Op.Cit.*, hal. 47.

²⁸*Ibid*,

²⁹Muhidin, *Kesejahteraan anak, Makalah disampaikan seminar internasional Penanggulangan masalah anak, eradication child problem, Policy Program and Strategi*, tanggal 5 july 2003, kampusn UNLA Bandung, hal. 3.

become abnormal humans and criminals³⁰.

The following data from the research results at the Correctional Center show that:

TABLE I Types of Criminal Action Act b y Children Conflict with the Law Year 2016

Month	Theft	Drug	Obscene	Persecution	Traffic Accident	Other Criminal act	Sum
Jan	14	4	1	5	1	1	26
Feb	26	9	1	5	6	6	53
March	21	10	5	6	2	4	48
Apr	20	9	5	8	1	9	52
May	22	5	5	7	2	-	41
June	22	7	16	4	1	4	54
July	17	7	4	-	3	-	31
August	35	6	5	6	2	8	62
Sept	27	6	6	8	1	1	49
Oct	19	7	4	18	3	3	54
Nop	18	8	8	7	3	9	53
Dec	14	3	4	1	1	-	23
Total	255	81	64	75	26	45	546

Based on table 1 above, the number of criminal acts committed by the highest children conflict with the law of theft, both drugs, the three persecution, obscene and laka then. This shows that there is a limitation of parents, society and the state in providing fulfillment of the needs of children, so that children try to fulfill their needs in accordance with their abilities. This is as many experts suggest that this is one of the consequences when there is a failure in meeting children's needs.

Table II Types of Criminal Action Act by Children Conflict with the Law Year 2017

Month	Theft	Drug	Obscene	Persecution	Traffic Accident	Murder	Other Criminal act	Sum
Jan	26	8	7	6	5	-	8	60
Feb	30	12	5	4	-	-	5	56
Mar	31	5	7	12	4	-	5	64
Apr	17	12	8	4	3	1	3	48
Mei	20	11	5	2	-	-	2	40
Jun	15	4	3	8	-	-	-	30
Jul	9	8	2	1	-	-	1	21
Ags	20	25	7	6	2	-	8	68
Spt	31	16	3	9	1	-	5	65
Okt	11	16	9	1	-	-	2	39
Nop	22	8	8	1	2	-	9	50
Des	24	8	2	1	-	-	-	35
Total	262	133	66	55	15	4	39	574

Based on table II above, it shows that the highest types of criminal offenses committed by children conflict with the law of theft, both narcotics, third sexual abuse and abuse. This shows there are problems within the child. Children basically do not have the desire to commit a crime, because children are an innocent and funny person, only because of various factors faced by the child that the child will have the opportunity to commit a criminal act. As happened in Medan.

³⁰Abu Huraerah, M.Si, *Op.cit*, hal. 39.

Table III Types of Criminal Action Act by Children Conflict with the Law Year 2018

Month	Theft	Drug	Obscene	Presecution	Traffic Accident	Murder	Other criminal Act	Sum
Jan	20	6	9	5	2	-	3	45
Feb	27	9	-	10	2	-	-	48
Mar	19	4	9	9	3	-	1	45
Apr	18	2	17	8	2	-	5	52
Mei	32	8	6	-	2	-	5	53
Jun	8	4	6	-	2	-	-	20
Jul	24	14	8	5	1	-	5	57
Aug	24	9	8	5	2	-	1	49
Sep								
Oct								
Nov								
Des								
Total	172	56	63	42	16	-	20	369

Based on the table, it still shows that the highest crime is theft, both obscene and narcotics. This condition shows that there is something wrong in the child, because the child commits a criminal act in which the child should not commit the crime. The results of the study also show that children face problems in their family and community environment.

Table IV Types of Criminal Acts and Background / Cause Factors Community Research Results

Information	Family Factor	Environment / Friendship	Economy / Low Education Level	Drug/Alcohol
Theft	Parents divorced/ broken family 50%	Slum/ scavanger/ trash picker (botot) 20%	Low/poor/jobless 20%	Dependence and for self-confidence / to be brave 10%
Drug	Parents divorced / broken family 30%	The rise of circulation / friendship environment with drug addict 40%	Circulating /drug selling as profession / unemployment cause 20%	Children are victimized by dealer
Obscene	Less attention Parents / Parents let the child make dating 40%	Much of Pornografic video /Much of romance soap opera 30%	Low education is mainly related to moral /religious knowledge 20%	Uncontrolled drug addict/for courage 10%
Presecution	Rude behaviour of parents / broken / divorced family 30%	Misunderstanding/emotional level / self-esteem / offense 20%	Low education level / Very lacking moral knowledge 30%	Dependency/ uncontrolled behaviour 20%
Traffic Accident	Neglecting parent / give their child the motorcycle 50%	No transportation / transportation service / friend persuasion & invitation / of friends / rush / carelessly on the streets 20%	Able to buy a vehicle / vehicle symbol of ability / Not knowing / mastering about traffic signs 20%	Can't control theirself 10%

Based on the table IV, Based on table iv the results of the study clearly show the factors that influence each of the criminal acts that occur.

E. Closing

The results of the study show that the factors that cause

children to be involved in committing a crime are family factors, environmental factors / friendship, Ekomomi. The level of education is lace and alcohol / drugs. The causative factors that must be reduced and eliminated so that children are not involved in committing a crime. Furthermore,

protection from the state and the attention of parents, adults and the environment in society greatly helps children to return to being children in accordance with the condition and development.

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