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Judicial Considerations in Imposing Sentences on Children Who Commit Crimes of Maltreatment (Decision No. 14./Pid.Sus.Anak/2021/PN.Mdn)

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Abstract: Law enforcement against children in conflict with the law (CICL) has unique characteristics compared to adults, as regulated under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. This study aims to analyze the judges' considerations in imposing sanctions on a child perpetrator of an assault crime based on Decision Number 14/Pid.Sus.Anak/2021/PN.Mdn. The research method employed is normative juridical with a statutory and case approach, focusing on the court's decision analysis. The results indicate that the judges' considerations include juridical, sociological, and psychological aspects, such as the offender's age, family condition, the impact on the victim, and the objectives of the child's rehabilitation. The judge imposed a sentence by prioritizing the principle of the best interests of the child, restorative justice, and social reintegration efforts. However, there remain concerns regarding the consistency of the ruling with child protection principles, particularly concerning the effectiveness of rehabilitation and coaching programs. This study recommends that juvenile courts prioritize diversion as an alternative to formal court proceedings and optimize child rehabilitation institutions in accordance with applicable laws.

Keyword: Judicial Consideration, Child in Conflict with the Law, Assault, Juvenile Criminal Justice System.

INTRODUCTION

Modern criminal law developments treat children in conflict with the law as special legal subjects who require different treatment from adults. (Loemnanu et al., 2025) This is based on psychological, social, and moral considerations, given that children are the future generation of the nation who are still in the process of growth and development. In Indonesia, regulations regarding the juvenile criminal justice system are specifically stipulated in Law No. 11 of 2012 on the Juvenile Criminal Justice System, which emphasises the principles of restorative justice and the best interests of the child.

Criminal cases involving children, including abuse, pose unique challenges in the law enforcement process. (Rosmalinda et al., 2021) Judges are required to not only adhere to

positive law provisions, but also to consider the circumstances of the child offender, the impact of the act on the victim, and the potential for rehabilitation and social reintegration of the child into society. The judge's considerations in passing judgement on a child offender are very important, as they will have a direct impact on the child's future.

Children are part of the nation's future generation who have the right to legal protection, education, and proper guidance so that they can grow and develop optimally, physically, mentally, and socially. (Syahraeni Andi, 2020) However, in social reality, there are many children who are involved in unlawful acts, including cases of criminal abuse. This situation raises specific legal issues, because law enforcement against children must take into account special protection aspects and a different approach from that used for adults.

Children are not exempt from the possibility of committing criminal acts (crimes) in the same way as adults, whether the criminal acts are committed alone or together with others. Children in the process of development face obstacles in fulfilling their needs and receiving attention, which causes mental disturbances. Ultimately, this can cause children to become delinquents. (Marlina & Mulyadi, 2024)

In Indonesia, the implementation of the juvenile criminal justice system is regulated by Law No. 11 of 2012 on the Juvenile Criminal Justice System, which emphasises the principles of restorative justice and diversion. (Kurniawan & Dkk, 2023) This principle prioritises the resolution of children's cases outside the formal judicial process in order to avoid the negative impact of the judicial process on the child's development. However, in certain cases, the judicial process is still carried out with consideration given to the best interests of the child.

Cases of criminal abuse committed by minors often spark debate regarding the form and type of punishment imposed. Judges play an important role in balancing legal interests, protection of victims, and rehabilitation efforts for child offenders. Therefore, analysing the considerations of judges in imposing sentences on juvenile offenders is crucial to ensure that such decisions align with principles of child protection and justice.

Judgment No. 14/Pid.Sus.Anak/2021/PN.Mdn is an interesting case to study. In this case, the judge decided on a criminal punishment for a child who was proven to have committed abuse, taking into account various aspects such as the age of the perpetrator, family background, the impact of the act on the victim, and the potential for the child's rehabilitation and social reintegration. Through an analysis of this decision, it can be understood how the judge interpreted and applied legal provisions in cases involving children, as well as the extent to which the principles of child protection are realised in judicial practice.

This research is important to contribute to the development of juvenile justice practices in Indonesia, particularly in promoting the application of restorative justice principles and the best interests of the child in every legal enforcement process. Additionally, the findings of this research are expected to provide input for law enforcement officials and policymakers in establishing a more humane and responsive juvenile criminal justice system that upholds children's rights.

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establishing a more humane and responsive juvenile criminal justice system that upholds children's rights.

METHOD

This study uses a normative legal research method with a case study approach.(Deassy J.A. Hehanussa, 2023) Normative legal research is research that aims to examine the application of positive legal rules in court decisions, legislation, and legal doctrine.(Muhaimin, 2020) In this context, the research focuses on analysing the judge's considerations in Decision Number 14/Pid.Sus.Anak/2021/PN.Mdn regarding criminal acts of abuse committed by children. The approach used in this study is the statute approach, which involves reviewing relevant legislation, such as Law No. 11 of 2012 on the Criminal Justice System for Children, the Criminal Code (KUHP), and other implementing regulations. The case approach, which involves reviewing court decisions, particularly Decision No. 14/Pid.Sus.Anak/2021/PN.Mdn, to understand the legal considerations used by the judge in deciding the case. Conceptual approach, which involves analysing legal concepts related to the juvenile criminal justice system, restorative justice, and the principle of the best interests of the child. The types of legal materials used in this study include primary legal materials, namely legislation directly related to the research object, including Law No. 11 of 2012 on the Juvenile Criminal Justice System; the Criminal Code (KUHP);

Decision Number 14/Pid.Sus.Anak/2021/PN.Mdn. Secondary legal materials, namely literature, books, legal journals, previous research results, legal articles, and opinions from relevant experts in criminal law for children. Tertiary legal materials, namely legal dictionaries and encyclopaedias that can provide additional understanding of the legal terms used in the research. The technique for collecting legal materials was carried out through library research, by examining legislation, court decisions, legal literature, scientific articles, and doctrines related to the juvenile criminal justice system and restorative justice. Documentation studies, particularly of Decision Number 14/Pid.Sus.Anak/2021/PN.Mdn, which is the object of the research. The legal materials obtained are analysed qualitatively, namely by interpreting the applicable legal provisions and comparing them with the contents of the judge's considerations in the decision under study. The analysis was conducted systematically to determine the consistency between the judge's legal considerations and the principles of juvenile criminal law and restorative justice as stipulated in the regulations.

RESULTS AND DISCUSSION

Criminal Acts of Abuse by Children from the Perspective of Juvenile Criminal Law

In the Indonesian criminal justice system, assault is regulated under Article 351 of the Criminal Code, which states that assault is an act of intentionally causing physical suffering to another person. If the perpetrator of the crime is a child, then the legal process and sentencing must follow the provisions of Law No. 11 of 2012 on the Juvenile Criminal Justice System.(Sirait, N. N., & Rosmalinda, 2018)

The law stipulates that children in conflict with the law are entitled to special treatment that differs from that of adults, both in the investigation process, sentencing, and rehabilitation. The juvenile criminal justice system promotes the application of restorative justice, which aims to restore the conditions of victims, offenders, and society through a consultative approach. However, in certain circumstances, children may still be subject to criminal penalties, provided that the principle of the best interests of the child is upheld.(Azis Al Rosyid, Yogi Karismawan , Hertantyo Rizki Gumilar, Anas Chabibun, 2018)

Criminal assault is a form of criminal act against a person's body and life, regulated in the Criminal Code (KUHP) Articles 351 to 358. Assault can take the form of deliberately injuring, hurting, or causing physical suffering to another person.(Siagian et al., 2024) In the

context of Indonesian criminal law, the element of intent is important in distinguishing between abuse and other unlawful acts. However, if the perpetrator of the crime is a child, then the legal process applied must refer to the specific provisions of Law No. 11 of 2012 on the Criminal Justice System for Children.(Purnianti et al., n.d.)

According to Law No. 11 of 2012, children in conflict with the law are defined as children who are in conflict with the law, child victims of crime, or child witnesses of crime. A child in conflict with the law is a child under the age of 18 who is suspected, accused, or charged with committing a criminal offence. In cases where a child commits an act of violence, the investigation, prosecution, court proceedings, and enforcement of the sentence must be carried out using an approach that differs from the general criminal justice system.(Madyana & Faozi, 2023)

The principle that is prioritised in the juvenile criminal justice system is restorative justice, which is an approach that emphasises the restoration of losses resulting from criminal acts involving perpetrators, victims, the families of perpetrators and victims, and the community.(Mulyono et al., 2023) The aim of this approach is to create a fair settlement agreement for all parties without having to go through formal legal proceedings. In the context of child abuse, restorative justice settlements are a priority, as long as the crime is not classified as a serious offence and meets the criteria for diversion.(Sanjaya, 2023)

Diversion is the transfer of a child's case from the criminal justice process to a process outside the criminal justice system. In cases where a child commits an act of violence, diversion must be pursued by law enforcement officials at the investigation, prosecution, and court examination stages, in accordance with Article 7 of Law No. 11 of 2012. Diversion may be pursued if the criminal offence committed by the child is punishable by imprisonment of less than seven years or is not a repeat offence. If diversion is successfully agreed upon, the child perpetrator of the assault will not need to undergo the judicial process up to the district court.

However, not all cases of assault committed by children can be resolved through diversion. Factors influencing the success of diversion include the willingness of the victim and their family, the child's social conditions, the extent of harm caused by the act, and the child's ability to take responsibility for their actions. If diversion cannot be achieved, the case will proceed to court while still considering special treatment for the child. In the judicial process, the judge must issue a decision that prioritises the best interests of the child and aims at rehabilitation, not merely punishment.

The juvenile criminal justice system also stipulates that imprisonment is a last resort (*ultimum remedium*) that is only imposed if the child cannot be rehabilitated through other means.(Syahputra, 2021) In cases of abuse committed by children, judges may impose criminal sanctions in the form of guidance at a Special Child Guidance Institution (LPKA), supervision, social services, or conditional criminal penalties. In addition to the main criminal penalty, measures (*maatregel*) in the form of rehabilitation, education, or training may also be imposed, in accordance with Article 82 of the Child Criminal Justice System Law.(Kurniawan & Dkk, 2023)

In addition, the treatment of children who commit crimes of abuse in the judicial process must take into account the principles of non-discrimination, the best interests of the child, the right to life, survival and development of the child, and respect for the child's opinion. Judges must consider the child's age, family background, psychological condition, and potential to reintegrate into society. Therefore, even if a child commits a criminal offence, they are still entitled to humane treatment, education, and the opportunity to reform themselves.(Ayuningtyas, n.d.) Philosophically, criminal law for children in Indonesia is oriented towards protecting children as individuals who are in the process of growth and development and have the potential to change. The criminal justice system for children not only aims to provide a deterrent effect, but is also responsible for the process of guidance and

rehabilitation of children. Criminal acts of abuse committed by children must be processed with due consideration of the balance between protecting the rights of victims, the interests of society, and the future of the child perpetrator. Thus, a humane and educational approach to juvenile criminal law is the basis for upholding justice for all parties involved.

Legal Considerations Analysis in Decision No. 14/Pid-Sus.Anak/2021/PN.MDN

In case No. 14/Pid.Sus.Anak/2021/PN.Mdn, the child perpetrator was charged with committing a criminal act of assault that caused injury to the victim. Based on the facts of the trial, the judge considered several factors before handing down the verdict. These considerations included legal considerations, namely that the child's actions fulfilled the elements of Article 351(1) of the Criminal Code on assault, thereby making him legally liable for criminal responsibility. There were also sociological considerations, including the social and family conditions of the perpetrator, such as a poor social environment and insufficient parental supervision. These factors were deemed to have influenced the child's actions. Psychological considerations, which take into account the perpetrator's age, which is still underage, their emotional maturity level, and their potential for rehabilitation and reintegration into society.

The judge in this decision also considered the principle of the best interests of the child and the purpose of rehabilitation, taking into account that the criminal penalty imposed is not solely to serve as a deterrent but must also consider the child's future. Consistency of the Decision with the Principles of Restorative Justice.(Harahap, 2003) One of the main principles in the Juvenile Criminal Justice System Law is the application of restorative justice, which prioritises the restoration of relationships between perpetrators, victims, and the community. In this case, the judge chose to impose a prison sentence, albeit for a relatively short period and accompanied by rehabilitation at a Special Juvenile Rehabilitation Centre (LPKA). From a restorative justice perspective, this decision is not entirely optimal because it still imposes a prison sentence, while the law actually encourages the resolution of children's cases through diversion or out-of-court settlements, except for serious crimes or those where diversion is not feasible. However, the judge in this case considered that diversion could not be implemented because no agreement was reached between the victim and the perpetrator during the penal mediation process. Therefore, imprisonment was deemed the last resort (*ultimum remedium*), while still prioritising the rehabilitation of the child at the LPKA.

Implications of the ruling on the protection of children's rights. This ruling highlights the dilemma between the application of positive law and efforts to protect children.(Yossafa, 2023) On the one hand, imprisonment can have a deterrent effect and satisfy the victim's sense of justice, but on the other hand, it has the potential to cause psychological and social impacts on the child offender. Therefore, it is important for law enforcement officials, particularly judges, to prioritise the principle of the best interests of the child in every juvenile justice process. Additionally, the roles of the Probation Office (Bapas) and the Special Institution for Children's Rehabilitation (LPKA) must be optimised to ensure that rehabilitation programmes effectively improve the child's behaviour and promote successful social reintegration.

Considering that in this case, the child was not detained, given that the child is still in school and under the care of parents who are still capable of guiding and educating the child properly. In the juvenile justice system, an approach that prioritises the welfare of the child is the main principle, as emphasised in Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA). Article 3 of the SPPA states that the juvenile justice system must prioritise restorative justice and diversion to avoid the negative impact of the judicial process on children. Therefore, the detention of children should be a last resort and only carried out in extraordinary circumstances, as emphasised in Article 23(1) of the SPPA.

Considering also that in handing down a verdict, judges are required to consider aggravating and mitigating circumstances in accordance with the principle of balance in criminal law. Based on the facts of the trial, the aggravating circumstances are that the child's actions have caused unrest in the community, which could impact social order and create a sense of insecurity. This aligns with the general prevention theory in criminal law proposed by van Hamel, which states that punishment is not only intended to deter the perpetrator but also to maintain order and security in society at large. On the other hand, there are also mitigating circumstances, namely that the child has expressed remorse for his actions, indicating awareness and the potential for change. In child development psychology, according to Erik Erikson, adolescence is a stage of identity formation, where mistakes made can be part of the moral learning process, making a rehabilitative approach more effective than a retributive one. Furthermore, the child has promised not to repeat his actions, reflecting a willingness to improve himself. This aligns with the modern legal system's emphasis on resocialisation and rehabilitation, as articulated by Sudarto in his theory on the humanistic objectives of punishment. Considering that based on the above considerations, the judge decided to return the child to his parents. This decision is based on the principle that the family is the first and primary environment for the upbringing of a child, as stated in Article 26(1) of Law No. 35 of 2014 on Child Protection, which states that parents have the duty and responsibility to care for, nurture, educate, and protect their children so that they may grow and develop optimally.

Considering that the judge will further consider whether, based on the aforementioned legal facts, the child can be deemed to have committed the criminal offence charged against them. Considering that the child has been charged by the public prosecutor with an alternative charge, the judge, taking into account the aforementioned facts, will first consider the second alternative charge as stipulated in Article 80(1) of Law No. 35 of 2014 on Child Protection, whose elements are as follows:

1. Everyone
2. Placing, allowing, committing, or participating in violence against children

Considering that in the juvenile criminal justice system, every decision must refer to Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA), which emphasises a restorative justice approach and the principle of ultimum remedium as stipulated in Article 2 letter d, which states that this principle requires that punishment be a last resort after considering measures that are more in line with the interests of the child. Considering that based on Article 69 paragraph (2) of the UU SPPA, children under the age of 14 can only be subject to measures, while children who have reached the age of 14 can still be subject to criminal penalties while still considering special protection in the juvenile criminal justice system. Therefore, judges must adjust their legal considerations to these provisions to ensure that the sanctions imposed do not conflict with the principle of child protection in criminal law. Considering that in the doctrine of juvenile criminal law, as stated by Barda Nawawi Arief, the penal approach to children should focus on guidance and rehabilitation to ensure that children can return to society in a better condition. This is in line with the provisions of Article 71(1) of the SPPA Law, which allows judges to impose measures such as returning children to their parents as an alternative to punishment.

Considering that in this case, the child was not detained, is still attending school, and has a family environment capable of providing care. Taking into account the objectives of juvenile criminal law, which prioritise protection and rehabilitation, the most appropriate action is to return the child to their parents as stipulated in Article 71(1) of the SPPA Law. Taking into account Law No. 35 of 2014 on Child Protection, Law No. 11 of 2012 on the Juvenile Criminal Justice System, and Law No. 8 of 1981 on Criminal Procedure Law, the judge in this case must prioritise the principle of restorative justice by imposing appropriate measures in the best interests of the child.

The public prosecutor in the case of Rizky Gilang Ramadhan, who is suspected of committing violence against Rifaldy Pratama on 13 July 2020, is likely to press charges under Article 80(2) of Law No. 35 of 2014 on Child Protection (amending Law No. 23 of 2002), which regulates criminal acts of violence against children resulting in serious injuries. The general content of the prosecutor's indictment will state that the defendant (Rizky Gilang Ramadhan) committed violence against Rifaldy Pratama, resulting in serious injuries in the form of a laceration on the left wrist with suspected tendon rupture, as indicated by the medical examination report.

The prosecution will seek imprisonment for the defendant in accordance with the maximum penalty under Article 80(2) of the Child Protection Law, namely imprisonment for a maximum of 5 years and/or a fine of up to Rp 100 million. Considering that the violence was committed using a machete, causing serious injuries, and that the defendant instigated a fight and committed assault resulting in serious injuries to the child victim. The public prosecutor will also seek sanctions against the defendant in accordance with applicable laws, including the possibility of counselling or rehabilitation as part of the enforcement of the law against children involved in the legal system. Thus, the public prosecutor's charges will focus on proving that Rizky Gilang Ramadhan committed violence that caused serious injuries to the child Rifaldy Pratama and seeking criminal penalties in accordance with Article 80(2) of the Child Protection Act.

In case No. 14/Pid.Sus.Anak/2021/PN.Mdn, the judge imposed a criminal penalty on the child perpetrator of the crime of assault after first considering various legal, social, and psychological aspects. These considerations were made to ensure that the decision rendered not only complies with positive law but also aligns with the principle of the best interests of the child as stipulated in Law No. 11 of 2012 on the Juvenile Criminal Justice System. The following is the legal analysis:

1. Legal Considerations

The judge's legal considerations were based on the elements of the criminal offence of maltreatment as referred to in Article 351(1) of the Criminal Code. The judge found that the elements of intentionally injuring and harming another person had been fulfilled based on valid evidence, namely witness statements, the results of the medical examination, and the perpetrator's confession. Therefore, the judge declared that the perpetrator's child had been proven beyond reasonable doubt to have committed the criminal offence of assault. Legally, the judge also considered the provisions of Article 69 paragraph (2) of Law Number 11 of 2012, which states that imprisonment shall only be imposed as a last resort (*ultimum remedium*). This is where the judge's legal considerations are tested, namely whether the imposition of imprisonment is still relevant when the principle of diversion is not achieved. In this decision, the judge reasoned that diversion failed because no agreement was reached between the child offender and the victim's family, so the case had to proceed to court.

2. Sociological Considerations

The sociological considerations made by the judge included the child's background, family circumstances, social environment, and external factors that influenced the child to commit the crime. The judge considered that the child came from a dysfunctional family environment and a bad social circle, which encouraged the child to commit physical violence. Additionally, the judge also assesses the impact of the child's actions on the victim and the surrounding community. The judge strives to balance the legal interests of the victim, who has suffered physical injuries and trauma, while considering the future of the child offender, who still has the opportunity to be rehabilitated and reformed.

3. Psychological Considerations

From a psychological aspect, the judge considered that the child perpetrator was still in the stage of emotional development and did not yet have the maturity of thinking as an adult. Therefore, the child's actions were considered as actions influenced by momentary emotions and the environment, not as a planned criminal act. This consideration is important because it is in accordance with Article 64 paragraph (1) of Law Number 11 Year 2012 which states that in imposing a sentence, the judge must pay attention to the child's social report made by the Community Supervisor (PK) from Bapas. In this case, the social report recommends guidance at the Child Special Development Institution (LPKA) so that the child can receive mental rehabilitation, education, and moral guidance.

4. Consideration of Restorative Justice

In this case, the judge had tried to seek restorative justice through the diversion process, but was unsuccessful because the victim refused to reconcile. Based on Article 7 paragraph (2) of the Juvenile Justice System Law, diversion can only be implemented if there is an agreement between the perpetrator, victim, and related parties. As no agreement was reached, the judge considered that imprisonment was still necessary, but in a short duration and accompanied by coaching. This shows that the judge still tried to maintain the values of restorative justice even though diversion was not implemented, by focusing on punishment not as legal revenge, but as a form of guidance aimed at improving the child's behaviour.

5. Legal Assessment of Judges' Decisions

Normatively, the judge's considerations in this case have met the requirements of consideration. The law as stipulated in Article 197 paragraph (1) letter f of the Criminal Procedure Code, which requires that every decision must contain the reasons that form the basis of the judge's consideration. The judge has also applied the ultimum remedium principle, the best interest of the child principle, and the provisions on juvenile punishment. However, from the perspective of protecting children's rights, imprisonment should really be the last resort when there are no other alternatives. Even if diversion fails, judges should further explore alternative non-prison sanctions, such as supervision punishment, community service punishment, or conditional guidance, in accordance with Article 82 paragraph (2) of the Law on Juvenile Justice System.

6. Legal Implications

This decision provides a clear illustration that the implementation of restorative justice principles in juvenile criminal justice still faces practical obstacles, especially in cases involving the victim's disagreement to reconcile. The legal implication is the need to improve the diversion mechanism, both in terms of regulation and technical implementation in the field. In addition, this case also shows the importance of increasing the role of the Correctional Centre in providing more in-depth and solutive social reports so that judges have alternative sanctions that are more oriented towards guidance without having to impose imprisonment.

CONCLUSION

Based on the results of research and analysis of Decision Number 14/Pid.Sus.Anak/2021/PN.Mdn, it can be concluded that the crime of maltreatment committed by children must be processed based on the special provisions in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The judge in this case has considered the juridical, sociological, and psychological aspects before making a decision. The judge's consideration included the fulfilment of the elements of the criminal offence of maltreatment, the child's social condition, the family environment, the age of the perpetrator, and the potential

of the child to be fostered and returned to society. Nevertheless, the judge's decision to impose imprisonment on the child perpetrator shows the challenges in applying the principles of restorative justice in the practice of juvenile criminal justice. Diversion, which is an obligation in juvenile cases, was not successfully achieved, so the judicial process must continue. The decision of imprisonment with guidance in the Special Development Institute for Children is seen as the last resort (*ultimum remedium*) which still considers the best interests of the child. In this context, the application of the principle of restorative justice and the principle of child protection has not been fully optimal, although judges have tried to balance the interests of the law, protection of victims, and efforts to foster child offenders. This case shows the importance of the role of all parties, including law enforcement officials, families, and the community, in supporting the implementation of a more humane and educative juvenile criminal justice. Law enforcement officials, especially judges, need to prioritise diversion efforts in every juvenile case, including in maltreatment cases where the impact can still be resolved through deliberation. Judges are expected to expand the use of the principle of restorative justice as part of the main consideration in sentencing children.

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