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Law Enforcement Efforts for Child Murder

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Abstract: The purpose of this study was to find out what are the factors that cause children to commit murder crimes, as well as to find out what efforts are made by the Gorontalo City Police in overcoming the occurrence of a murder crime committed by children. This research was conducted using empirical legal research methods. The results of this study can be seen that the factors that cause children to commit murder are internal factors which include unstable emotional factors, misunderstanding factors, vengeful factors, psychological factors, and weak faith factors. While on external factors, namely family factors, economic factors, alcoholic beverage factors, and child neglect factors. While the countermeasures carried out by the Gorontalo City Police are pre-emptive efforts which are basic actions in the form of appeals, then preventive efforts are continued efforts preemptive in the form of direct and repressive preventive measures which are punitive efforts or law enforcement efforts.

Keywords: Criminology; Child; Murder.

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1. Introduction

One of the mandates of the Preamble of the NKRI Constitution in 1945 as a modus vivendi (noble agreement) of the formation of the Indonesian state in the fourth paragraph said that the purpose of the state is one of "protecting the entire Indonesian nation", this has provided a bridge to the existence of holistic and comprehensive protection that is the responsibility of the state and the elements of statehood inherent and contained in it. As is known, of course, if you read the nuances of spirituality rather than the birth certificate of this country, then substantively this country is formed to be free from all forms of oppression, both physically and psychologically for all people and communities mediating the Unitary State of the Republic of Indonesia, including in this case children.¹

Indonesia is the highest agreement of the state framers, although it experienced a constitutional test when the 1945 Constitution was changed to the Constitution of the United States of Indonesia in 1949, even though recognition of areas under the auspices of the State of Indonesia is still recognized.² The absolute requirement of state sovereignty is the existence of a society that obeys its constitution and government.³ Because the essence of the constitution is the conception of the state which is the basis and limitation of the constellation of state administration systems.⁴ Therefore, in legal politics, a discovery of law and making new laws by the objectives of the State is a value that must be carried out to achieve legal supervision and justice.⁵

In our daily life, even in society, to meet the needs of life there are often crimes and violations committed by certain people and people who threaten some of the members of society, which in legal science is known as criminal acts. ⁶ Currently, not only the crime rate or quantity of crime is increasing but also the type of crime or quality has grown rapidly in Indonesia. Criminal sanctions are seen as an effective solution to tackling the problem. Criminal sanctions are a manifestation of the state's responsibility to maintain security and order as well as legal protection efforts for its citizens. This is a logical consequence of the concept of the formation of a state which, according to JJ Rosseau, is based on the agreement of the people. Furthermore, the people agreed to enter into a noble agreement (modus vivendi) which was outlined in a basic law in the form of a state

¹ N. M. Alhasni, M. R., Badu, L. W., & Nggilu, "Menakar Peran Kepolisian Dalam Mencegah Tindak Pidana Pencabulan Terhadap Anak Di Bawah Umur," *Jurnal Legalitas* 12, no. 2 (2019): 110–23.

² Novendri M. Nggilu, "Tinjauan Yuridis Pengaturan Sanksi Pidana Dalam Peraturan Daerah Provinsi Gorontalo," *Lambung Mangkurat Law Journal.* 5, No. 2 (2020): 109–121., 110

³ Mellisa Towadi and Nur Mohamad Kasim, "An Indication of China's Policy towards Uighurs and Its Implications by International Law Aspects." *Jambura Law Review.* 3, No. 01 (2021): 55–71., 69

⁴ Ahmad dan Novendri M. Nggilu Fakultas, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution." *Jurnal Konstitusi*. 16, No. 4 (2019): 785–808., 791

⁵ Mohamad Hidayat Muhtar, "Model Politik Hukum Pemberantasan Korupsi Di Indonesia Dalam Rangka Harmonisasi Lembaga Penegak Hukum." *Jambura Law Review*. 1, No. 1 (2019): 68-93., 73

⁶ Dian Ekawaty Ismail and Mohamad Taufiq Zulfikar Sarson, "Criminology Analysis of Women's as Perpetrators of Domestic Violence Crimes," *Jambura Law Review* 3, no. 1 (2021): 57–76., 58

constitution.⁷ Legal protection is very necessary because of efforts to integrate various needs in the association so that there is no conflict between needs and one can enjoy all the rights provided by law.⁸ The state is firmly obliged to strive to fulfill the rights of every citizen.⁹

Children are entrustments or trusts given by God Almighty to humans who must be maintained, cared for, and educated as appropriate. In addition, children also have the right to be named, fed, and schooled. In addition to fulfilling children's rights, children also must be filial to parents, care for themselves independently when they have entered adolescence, and are also obliged to maintain the good name themselves and the good name of the family. As we get older, the wider and deeper an association can sometimes have a bad impact on children's lives as a result of which not a few children often fall into the wrong association. "Therefore, in this situation, the role of the family is very influential so that children avoid these negative things because it is in the family environment that children get their first education" 10

This can be started by always providing education on how to build a social environment that leads to positive things. This must be done because "in the social environment factors are closely related to social and family ties, alcohol abuse, the use of illegal drugs and addictive substances, and the encouragement of attitudes formed by the mass media." ¹¹

The rapid development of community progress, in social life, has an impact on the quality (modus operandi) of criminal acts or crimes in various countries and between countries. ¹² Besides providing benefits, the development of the era of unlimited globalization also has a negative impact, especially on children's development of knowledge about information technology and communication. So that the child can easily obtain information about culture, customs, and social values from an area that is far different from the sociocultural values or customs that exist in the area where the child lives without any information filter, in the sense that the child has no restrictions in finding information so that it does not rule out the possibility that children can get information that can adversely affect the

⁷ Ramdan Kasim, "Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (Overspanning van Het Straftrecht)," *Jambura Law Review*. 2, No. 1 (2020): 1–29., 3

⁸ Jufryanto Puluhulawa, Mellisa Towadi, and Vifi Swarianata, "Perlindungan Hukum Situs Bawah Air Leato / Japanese Cargo Wreck The Legal Protection of The Leato Underwater Site" *Jurnal Reformasi Hukum* 24. No. 2 (2020): 189–208., 197

⁹ Julius Mandjo, "The Right to Obtain Free Assistance and Legal Protection for The Indigent People Through Legal Assistance Organizations." *Jambura Law Review.* 3, No. 02 (2021): 365–77., 375

¹⁰ Reza Amarulloh, "Kajian Kriminologi Terhadap Pelaku Tindak Pidana Pembunuhan Yang Dilakukan Oleh Anak," *Jurnal Recidive* 3, no. 1 (2014): 97–105.

¹¹ Moh.Fahrurrozie Hidayatullah Nur Musa Moh Rusdiyanto U. Puluhulawa, Jufryanto Puluhulawa, "Kebijakan Kriminal Dalam Penanggulangan Tindak Pidana Penganiyaan Menggunakan Panah Wayer Oleh Anak Di Kota Gorontalo," *Jurnal Yuridis* 6, no. 2 (2019): 104.

¹² Yahya Muamar, "Kajian Kriminologi Peredaran Narkotika," Jurnal Al-Ijtimaiyyah 5, no. 1 (2019): 2.

life or association of children so that things It can trigger the emergence of my deviant behavior from the child.

The rolling climate of reform and democratization in Indonesia in the last five to ten years has brought winds of change in the form of very free freedom of expression. This freedom on several occasions has gone too far and even led to conflict. In fact, during the 77 years of the Republic of Indonesia, the implementation of respect, protection or enforcement of human rights is far from satisfactory. "This is reflected in incidents of unlawful arrests, kidnappings, molestation, rape, enforced disappearances, murders, burning of educational facilities and places of worship, and the growing terror of bombs (terrorists)." ¹³

The level of crime in society is not least triggered by social ills such as "poverty, a bad or less conducive environment, the nature and personality of individuals who sometimes often deviate and the absence of a sense of wanting to show moral values from within the individual." However, this does not rule out the possibility that "many perpetrators of crimes or criminal acts are found from people of middle to upper economic level." Crimes or crimes involving children generally occur because of a lack of understanding between what can be done and what should not be done. The general factors of children committing criminal acts, in this case the crime of murder are internal factors that come from the inner desire to commit murder and external factors, namely factors that come from outside the individual. Regardless of these factors, until now there is nothing that can justify murder even if the perpetrator of the murder is a minor, it will still be processed legally. The crime of murder committed by children can be said to be very heavily accepted by society because it proves that the crime of murder can not only be committed by adults who have common problems such as economic problems and so on but can be committed by children.

As for Law Number 11 of 2012 concerning the Juvenile Justice System, it is explained that juvenile prisoners are; "Children who have received a decision from the court to serve a criminal term in a juvenile correctional institution or known as the Special Child Development Institute (LPKA). The children who serve their criminal period in LPKA are children aged 14 years to 18 years, but after being submitted to a court hearing after the child concerned has passed the age of 18 years but has not reached 21 years old, the child is still submitted to the juvenile court, this is explained in article 20 of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA)."¹⁶

¹³ Lisnawaty Badu, "Pengaturan Dan Perlindungan HAM Dalam UUD 1945 Serta Aspek Pidana Nasional Dan Internasional," *Jurnal Legalitas* 3, no. 2 (2010).

¹⁴ Donatianus Patinus, Redatin Parwadi, "Kenakalan Remaja Di Kalangan Siswa-SiswiSMPN 07 Sengah Temila Kecamatan Sengah Temila Kabupaten Landak," *Jurnal Tesis PMIS-UNTAN-PSS* 1, no. 0001 (2014).

¹⁵ Momon Martasaputra, Asas-Asas Kriminologi (Bandung: Penerbit Alumni, 1973).

¹⁶ Undang - Undang Nomor 11 Tahun 2012, "Tentang Sistem Peradilan Pidana Anak," n.d.

Based on the above, in the Gorontalo area, especially Gorontalo City, which is the jurisdiction of the Gorontalo City Police there have been several incidents of murder committed by minors. In 2016 there were two murder convicts, who were found to have murdered the biological father of a teenage girl with the initials F (17) and her boyfriend who had the initials OP (20). The teenage girl was charged with Article 340 of the Penal Code and the boyfriend was charged with Article 338 of the Penal Code. Furthermore, in 2018, a teenager with the initials NL aged 17 years from Lekobalo sub-district, Kota Barat District, Gorontalo City was legally proven to have committed the crime of "Murder" and charged with article 338 concerning Murder. In 2020 a teenager with the initials LR (17) from Lekobalo Village, West Kota District, Gorontalo City, was proven to have committed the crime of "PREMEDITATED MURDER" against his uncle. As a result, LR (17) was tried under Article 340 of the Criminal Code.¹⁷

2. Method

This type of research is empirical research, research methods are ways of doing things by using the mind carefully to achieve a goal by searching, writing, formulating, and analyzing a report.¹⁸ This research using data analysis techniques is a research activity in the form of studies or research on the results of data processing using theories obtained previously.

3. Analysis And Discussion

3.1.Law Enforcement Efforts in Combating Criminal Acts of Murder Committed by Children in the Jurisdiction of the Grontalo City Resort Police

Crime prevention efforts are an effort made by law enforcement officials who in this discussion are police agencies. Countermeasures are also an action or activity to overcome, prevent or solve a crime, especially the crime of murder committed by minors in the Gorontalo City area by using alternatives that are under the provisions of standard procedures that have been established based on existing legal laws and regulations. In an interview conducted, Bridagir Faisal Karim said that his agency in tackling the crime of murder is of course by applying criminal law with penal efforts that refer to three ways, namely:

Pre-emptive efforts are the initial efforts made by the police to prevent crime. In an interview conducted, Brigadier Faisal Karim said that in carrying out pre-emptive efforts, the Gorontalo City Resort Police routinely appealed to the community, Not only that, he said that to reduce the number of crimes committed by children in Gorontalo City, his party also routinely made appeals in the form of socialization in public and private

¹⁷ Data yang diperoleh dari reskrim polres Gorontalo Kota

¹⁸ Chilid Narbuko dan Abu Achmadi, Metodologi Penelitian (Jakarta: PT. Bumi Aksara, 2003).

schools both from the elementary school level, Junior High School, Senior High School / Vocational / MA to Higher Education.

Preventive efforts are also an effort to prevent criminal acts before they occur which are carried out through educational activities to aim to influence the causative, motivating, and opportunity factors to create early awareness and vigilance to create a condition of behavior and norms of living free from various kinds of crimes, especially murder committed by children. Faisal Karim said that their efforts to prevent and overcome crimes in the jurisdiction of the Gorontalo City Police have been carried out optimally, namely in various ways with examples such as conducting patrols or raids carried out in certain places with the target of raids, namely the illicit circulation of alcoholic drink, the circulation of illegal drugs, the use of sharp weapons and firearms, raid nightlife venues and places that gather biker groups that are used as wild racing venues.

Repressive efforts are a form of overcoming crimes committed by children. This effort is carried out when a crime has occurred which is also a form of law enforcement. Repressive efforts are an effort to overcome crime in a conceptualized way that is carried out after the crime of murder committed by children. Countermeasures with repressive efforts are carried out to crack down on the perpetrators by their actions so that the perpetrators are responsible for what they have done considering that the crime they committed is a serious crime, namely murder. But even though this is a serious crime, in the process of dealing with law enforcement authorities must do it in a very careful way that cannot be done in a way that uses violence both physically and verbally because considering the perpetrator is a minor, so law enforcement must be very attentive to all actions against the child perpetrator but again that there is nothing that can justify murder.

In addition to the three efforts to overcome the crime of murder, the application of sanctions in the form of punishment based on the regulations of the law is also a way that can be done to make children as perpetrators of murder become a deterrent and not repeat the crime. The following are some theories regarding the purpose of imposing a criminal sentence, namely:

Vergelding theoric/retribution: This theory was put forward by E. Kant, who argued that "whoever kills must also be killed". The point of the core of this theory of retribution is that those who commit evil must be punished by physical torture so that they can recognize their actions so that they will not repeat their actions. At first, the aggrieved party may avenge any malicious treatment he receives, but of course, this cannot be done just like that in this country, because every criminal act committed has a law that regulates it, especially in this case, namely murder committed by children where the perpetrator is, of course, a child brought to an age whose every settlement of criminal cases must be based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA).

Afschriking / deterrence theory, as for this theory is also called the "scare theory" Feurbach argues that punishment must also be able to scare people, in this case, children as perpetrators of murder crimes so as not to repeat their actions. However, since in this case, the child is the main perpetrator of murder, this theory must be reconsidered if it is to be applied because it may hurt the psychological condition or mental health of the child.

The theory of closure "onschadelik/incarceration", Exile or closure is a form of suggestion or doctrine that can prove that quarantine measures or so-called coaching are indeed very necessary in carrying out the punishment of minors to prevent the repetition of crimes that have been committed previously.

Corrective Theory, This theory is a theory that states that the purpose of convicting children as perpetrators of murder is to improve the life behavior of the child perpetrator of murder itself. This process is also called the process of rehabilitation, resocialization, or correction (if the perpetrator is a minor, then coaching is applied at a Special Child Development Institution).

Reflecting on the authority of the National Police of the Republic of Indonesia Number 70 of 2009 concerning the National Police of the Republic of Indonesia in Article 7 paragraph 3 provides functions to the police to carry out the process of protection and protection to the wider community. The effort to carry out this must be done as well as possible within the framework of effective and efficient law enforcement. Thus in an interview with Bripda Sitti Alisyah, she explained several important stages in the process of overcoming murder crimes committed by children by established operational standards, as for the stages, namely:19

In conducting the investigation process, the Police will search and collect evidence used by children in committing murders. The party that carries out this process is the Criminal Investigation party which in this case, the Women and Children Unit is also assisted by high-ranking police officials. Thus, the target of the investigation process is a person both from the side of the perpetrator and the victim, objects or items used by children in committing murder and the location of the scene called the crime scene.

The investigation process can only be carried out after the investigation process stage has met the requirements which is marked by the issuance of a valid investigation order by the authorized official in the investigating agency. Thus in article 26 paragraph (3) of Law Number 11 of 2012, it has been arranged to be appointed as an investigator in child cases, namely: Have experience as an investigator; Have interest, attention, dedication and can understand children's problems; Have attended technical training on juvenile justice Crime Scene Processing (Crime Scene).

¹⁹ Bripda Siti Alisyah Panigoro Anggota Satreskrim Polres Gorontalo Kota Unit PPA Wawancara Tanggal 25 Januari 2023

In an interview, Bripda Sitti Aisyah said that if she knew of a criminal act, in this case, the murder committed by a child, both reported and unreported, the police, especially the Gorontalo City Porlres Crime Unit, immediately went to the crime scene to sterilize the crime scene to avoid things that could hamper the crime scene processing process after which the crime scene processing process was carried out. As for after processing the crime scene marked by sufficient evidence referring to the child where he had committed the murder, then the Police can find out the motive, mode, cause, or reason why the child committed the murder, what kind of incident at the time the murder occurred and also how the child committed the murder.²⁰

After receipt of the report by the investigator, the investigator summons witnesses. The examination of witnesses must be able to give statements or be able to sign testimony in a document of the Minutes of Examination (BAP) as evidence in the future or someone who gives his testimony about the facts he saw himself at the place of the case.

Conducting Visum/Autopsy, At this stage carried out by the police and forensic medicine to determine the cause of death. According to Bripda Sitti Alisyah, at this stage, it can also be known whether there was torture before the victim was killed, for example, whether it was preceded by violence using blunt items first or directly stabbed, as in the case of murder committed by a child in 2020 where before being stabbed the victim was doused with boiling cooking oil by the perpetrator while sleeping before finally being pounced several times by the perpetrator. ²¹After the police receive additional evidence in the form of a letter of visum / autopsy results from the victim, the Police, especially the Criminal Investigation Unit unit PPA will arrest the child who is the suspected perpetrator of the murder, with arrest procedures adjusted to the age of the child perpetrator of the murder.

Arrest, The arrest process is carried out by investigators / auxiliary investigators against children who are strongly suspected of having committed the crime of murder. Before making an arrest, the officer must of course be equipped with a warrant of duty and an arrest warrant. The entire series of arrest processes carried out by SATRESKRIM must be based on the provisions of the Criminal Procedure Code and must also be considered with SPPA (Juvenile Criminal Justice System) or in the rules of Law Number 11 of 2012 considering that the perpetrators to be arrested are minors. Activities ranging from investigations to equipment minutes must be published in the Minutes of Case (BAP).

The completion and submission of files to JPU, The stage of completing and submitting case files is the final stage of criminal investigations carried out by investigators /

²⁰ Bripda Siti Alisyah Panigoro Anggota Satreskrim Polres Gorontalo Kota Unit PPA Wawancara Tanggal 25 Januari 2023

²¹ Bripda Siti Alisyah Panigoro Anggota Satreskrim Polres Gorontalo Kota Unit PPA Wawancara Tanggal 25 Januari 2023

auxiliary investigators, the process which includes making resumes, compiling the contents of case files, and hardening case files that must be done in detail and very carefully so that case files can meet the requirements, neatly arranged and systematically. After that, it was followed by the activity of submitting the case file where the case file was delivered along with the handover of responsibility for the suspect and case evidence to the public prosecutor (JPU).

In handling this case, investigators have carried out steps and stages by applicable procedures, and investigators are expected to be able to overcome if there are any obstacles in conducting investigations, however, in an interview conducted by Brigadier Faisal Karim said that there are often fatal mistakes that are distorted and considered to slow down the investigation process carried out by the Gorontalo City Police SATRESKRIM, The things are:²²

- 1) The suspect who tried to eliminate the evidence used when he carried out his action
- 2) The curiosity of the community around the crime scene towards the incident is so high, that it is not uncommon for residents to enter the crime scene area even though they have been given a police line
- 3) The delay in the report given by residents to the police so that when the police went to the scene, curious residents had filled the scene as a result of which the CID had difficulty checking the location of the crime scene.

According to Barda Nawawi, things that must be considered in the handling and prevention of murder incidents are that every prevention and countermeasure must uphold the norms or values of community welfare and community protection. Especially in this case where minors are the main perpetrators all actions taken from the investigation stage of the suspect to the stage of handing over the suspect to the JPU must be carried out in a way that is as humane as possible so that other things do not happen to the child.

4. Conclusion

Efforts made by law enforcement officials in tackling the crime of murder committed by children include; The first is Pre-emptive efforts, which are initial efforts made to respond to crime with activities in the form of appeals and socialization. The second is preventive efforts, which are a continuation of pre-emptive efforts. The third is repressive, Countermeasures with repressive efforts are carried out to act on the perpetrators by their actions so that the perpetrators are responsible for what they have done.

²² Brigadir Faisal Karim SH Anggota Satreskrim Polres Gorontalo Kota Unit PPA Wawancara Tanggal 25 Januari 2023

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