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Criminal Sanctions Model For Children Aged 15-18 Years As A Form Of Criminal Law Reform

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ABSTRACT

The tabulation of case data collected by the Indonesian Child Protection Commission (KPAI), the Directorate General of Corrections of the Ministry of Law and Human Rights, and the National Police's National Police Center (Pusiknas Polri) explicitly shows the high number of cases of children in conflict with the law and the high number of children in conflict with the law as perpetrators with very serious crimes. The data is also still collected data, which means that data in the field can be much larger than the data that has been recorded, so it requires special and serious attention. Several problem formulations were drawn for the research study, namely how the regulation of criminal sanctions for children and the urgency of formulating a model of criminal sanctions for children aged 15-18 years as perpetrators of crimes in Indonesia, how the concept of updating the model of criminal sanctions for children aged 15-18 years in Indonesia, and how the formulation of the model of criminal sanctions for children aged 15-18 years is appropriate to the ethics of national legal development in Indonesia. This research uses a normative juridical method with a conceptual approach and qualitative analysis of primary and secondary legal materials. The research results show that the provisions on criminal sanctions for children in the Child Protection and Child Protection Law are still rehabilitative and not fully proportional for children aged 15–18 who commit serious crimes. Therefore, it is necessary to formulate a new sanction model that is fairer, more educational, and has a deterrent effect. The proposed reform concept includes optimizing the principal penalty to two-thirds of the adult penalty, accompanied by additional community service and out-of-institutional guidance, and increasing the maximum sentence to 12 years for crimes punishable by death or life imprisonment.

Keywords: Sanction Model, Child Criminalization, Criminal Law Reform

INTRODUCTION

Article 1 point 3 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) explains that children in conflict with the law are children who are 12 years old, but not yet 18 years old who are suspected of committing a crime. In other words, it can be seen that the age limit for children in Indonesia is too broad, even though the ages

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of 12 to 18 years are included in the category of adolescents who can be divided into several phases. A similar point was put forward by Elizabet B Hurlock who divided adolescents into two categories, namely early adolescence aged 11-12 to 16-17 years and late adolescence aged 16-17 to 18 years.

Hendriati Agustiani, further explained that in general, teenagers can be grouped into three phases, namely as follows:

Early adolescence (12-15 years)

During this period, individuals begin to leave their childlike roles and strive to develop themselves as unique individuals independent of their parents. The focus of this stage is acceptance of one's physical form and condition, as well as strong conformity with peers.

Middle adolescence (15-18 years)

This period is marked by the development of new thinking skills. Peers still play a significant role, but individuals become more self-directed. During this period, adolescents begin to develop behavioral maturity, learn to control impulsivity, and make initial decisions related to their vocational goals.

Late adolescence (19-22 years)

This period is marked by final preparations for entering adult roles. During this period, adolescents strive to solidify vocational goals and develop a sense of personal identity. A strong desire to mature and be accepted by peers and adults also characterizes this stage.

The criminal sanction model for children aged 15-18 who commit crimes in the reform of criminal law in Indonesia is highly relevant in this context. Children categorized as adolescents between the ages of 15 and 18 are not fully mature emotionally or cognitively, but they are also no longer fully categorized as children and are more capable of self-control and making initial decisions. It is also worth noting that various news reports have identified cases of children aged 15-18 committing serious crimes. The types of crimes committed can vary widely, from theft and sexual violence to physical violence and more serious criminal acts. This fact demonstrates that although adolescents at this age are in a crucial developmental phase, where critical thinking and self-control skills are beginning to

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develop, children who come into conflict with the law and engage in serious crimes must still be held criminally accountable for their actions.

As a reflection, cases of child complaints based on the child protection cluster from 2016-2020 compiled by the Indonesian Child Protection Commission (KPAI) and published on May 18, 2021, show that there are 11 categories of children in conflict with the law (ABH) as perpetrators. There were 2,626 cases of ABH as perpetrators throughout 2016-2020, where it was known that children as perpetrators of sexual violence in the form of rape and molestation occupied the first position as the most frequently committed crime (702 cases), followed by children as perpetrators of physical violence in the form of abuse, assault, fights, etc. (506 cases), and so on. This figure has not been calculated with children who are drug users and dealers (339 cases), children who are perpetrators of student brawls and violence at school in the form of bullying (766 cases), children who are perpetrators of online sexual crimes, ownership of pornographic media, and bullying on social media (1,570 cases), and children who are perpetrators of commercial child sex recruitment/pimps (4 cases).

According to data from the Directorate General of Corrections at the Ministry of Law and Human Rights, cases of child abuse (ABH) have shown an increasing trend from 2020 to 2023. As of August 26, 2023, nearly 2,000 children were in conflict with the law. Of these, 1,467 were incarcerated and undergoing trial, while 526 were serving sentences as convicts. According to the Indonesian Child Protection Commission's 2020 "Implementation of the Juvenile Justice System" Report, compiled by Kompas Research and Development, the number of children in conflict with the law handled by the police, based on case resolution, between 2017 and 2020 was 29,228. Of these, 4,126 children underwent diversionary investigations. Diversionary processes for child offenders remain limited to date. Data from the Directorate General of Corrections at the Ministry of Law and Human Rights indicates that in 2023, the majority of ABH were sentenced to more than 1 year in prison as of August 25, 2023, amounting to 1,089 children or 72.3% of the total number of child prisoners.

According to data from the National Criminal Information Center (Pusiknas) of the Indonesian National Police, more than 1,000 children were named as suspects in criminal cases each month throughout 2024. Data from the Electronic Management of Police (EMP)

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of the Pusiknas Bareskrim Polri shows that 40,079 children have come into conflict with the law since January 2024. A total of 20.83 percent of children are in conflict with the law. Meanwhile, 49.37 percent of children are victims of crime. Meanwhile, 29.78 percent of children are witnesses to crimes. The North Sumatra Regional Police are the regional police with the most action against children in conflict with the law. Since the beginning of the year, the North Sumatra Regional Police have prosecuted 1,046 children in conflict with the law as suspects.

Quoting from the Ministry of Women's Empowerment and Child Protection (Kemen PPPA) website, after the enactment of the SPPA Law, it is expected to bring significant changes that emphasize the conditions for creating justice for perpetrators of criminal acts and victims. However, seeing the high data on criminal cases categorized as very serious offenses involving children in conflict with the law, a new formulation is needed that can address the legal needs related to sanctions for child perpetrators of crimes aged 15-18 years, in order to bring justice as a form of criminal accountability committed by children in conflict with the law. Reform is needed to shift the paradigm and create solutions from fair juvenile courts.

Further research will be conducted on the issue of children's capacity to take responsibility for their actions in conflict with the law, particularly those aged 15-18. The law considers that only perpetrators who meet a certain age limit have the capacity to take responsibility and are obligated to be accountable for their actions. The Child Protection Act (SPPA) also regulates children's rights to receive relatively lighter sentences. However, as previously described, based on the age range and data on crimes committed by children in conflict with the law, it is clear that children in Indonesia are already quite prevalent in committing crimes categorized as very serious offenses. Therefore, crimes committed by children in conflict with the law have reached an emergency and are of concern.

Therefore, there is an urgent need for a sanction model that focuses on creating a system that protects children as individuals who are not yet fully mature, but also provides a proportional response to the crimes committed, especially in serious cases, by paying attention to the ethics of national legal development. This research will focus on formulating a model for imposing sanctions on children aged 15-18, prioritizing the sense of justice

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inherent in society. The age limit for children in conflict with the law is crucial to consider in order to develop an ideal model for criminal sanctions.

METHOD

The type of research used by the researcher is normative legal research, also known as doctrinal legal research, which is legal research that refers to legal norms contained in statutory regulations, as well as court decisions or legal research that uses secondary data. This is done by using library materials as the main support. By placing law as a system of norms. To obtain theoretical or doctrinal concepts, opinions or conceptual thoughts and previous research related to the research study object which can be in the form of laws and other scientific works.

The data collection technique used in this study, a normative juridical legal research technique, will be obtained through literature review. Literature review is conducted by collecting documents and data necessary for the research problem, then analyzing them intensively to support and increase credibility and evidence for an event. When collecting data for the literature review, the researcher must be meticulous and precise in finding data from relevant legislation, literature, studies, and scientific research. Next, the researcher will analyze, process, discuss, and formulate a criminal sanction model for children aged 15-18 as perpetrators of crimes within the reform of Indonesian criminal law.

The data collected in this study will be analyzed using a qualitative method approach, which is a research procedure that produces descriptive data, namely collecting all necessary data and obtained from primary, secondary, and tertiary legal materials, as well as primary data as supporting data, in this case in the form of interviews. Next, the researcher draws a conclusion deductively, namely drawing conclusions from general things to specific things. Can also use a prescriptive method, namely an analysis method that provides an assessment (justification) of the object being studied according to law.

DISCUSSION

Children are not merely biological legacies, but rather the clearest reflection of the future of civilization. They are the beacons of the nation, the inheritors and architects of national

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values and identity. Children play a crucial role in the development of a nation because they represent the younger generation, possessing potential and aspirations. Therefore, child development must be directed in a positive direction. However, it cannot be denied that in the process of growth and development, children cannot always be free from negative influences. Environmental factors, social pressure, and lack of guidance can push children to engage in deviant behavior, even leading to criminal activity. Negative deviant behavior in children is often referred to as juvenile delinquency. According to WA Gerungan, deviant behavior by children tends to lead to criminal acts which are classified as delinquency.

This is where the importance of the state's presence in providing legal protection for children lies.As the nation's future generation, children need legal protection. Many parties must be involved, reminding them of the need for caution in handling children to prevent future trauma. The first thing that must not be forgotten in handling the judicial process for children as perpetrators of criminal acts is to see their position as children with all their special characteristics and traits, thus the orientation of the concept of protection for children in the process can be based on the concept of welfare and interests of the child. It should be remembered, the most fundamental thing in handling children who commit crimes is to see them as children, namely individuals who are still in the developmental stage, with special characteristics that distinguish them from adults.

Legal treatment of children must be based on the principles of welfare and the best interests of the child, so the approach used in the juvenile criminal justice system must be different from the adult criminal justice system, which includes special treatment, psychological approaches, and protection of children's rights while taking into account the needs and benefits of the law. International instruments also support this approach. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) emphasizes that: "The juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offender and the offense." This means that the juvenile criminal justice system must prioritize the welfare of the child, and the response to violations of the law must take into account the child's personal circumstances and the offense.

Unfortunately, the juvenile justice system in Indonesia, as regulated in Article 1, point (3)

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of the Juvenile Criminal Justice System Law, still treats all children aged 12 to under 18 equally. This has the potential to ignore the different developmental stages and rehabilitative needs of each age group. Furthermore, the principles of restorative justice and child protection also require fair treatment that is appropriate to the individual child's condition.

Researchers note that there remains a gap in the legal system, namely the lack of a clear distinction between early and late adolescents in criminal liability. However, the psychological and cognitive development of 12-year-olds and 18-year-olds is significantly different, based on findings in developmental psychology, particularly within the theoretical frameworks of Erik Erikson, Jean Piaget, and various studies of adolescent development.

According to Erik Erikson's psychosocial theory, early adolescence (12–15 years) is in the identity exploration stage, still highly emotional, and susceptible to environmental influences. Meanwhile, late adolescence (16–18 years) tends to begin to develop self-control and a more mature social understanding. Meanwhile, according to Jean Piaget's Theory of Cognitive Development Stages, 12-year-old children are in the transition to the "Formal Operational Stage" but are not yet fully mature in abstract thinking and at the age of 16-18, most teenagers have reached the Formal Operational stage which allows logical thinking, projecting the future, and considering the long-term consequences of actions. This age group has unique psychological and social characteristics, placing them in an in-between position: no longer fully children, but also not yet adults. During this period, physical and mental changes occur at the biological age of adulthood, creating a seemingly contradictory situation, as they are considered adults on one hand but also immature on the other. This situation raises a critical question: does the current criminal sanction model reflect the needs and fair treatment of children aged 15–18?

Adolescents aged 15–18 are not yet fully mature emotionally or cognitively, but they are also no longer classified as children in the true sense. At this age, individuals have demonstrated greater self-control and are beginning to make initial decisions independently. This is important to note given that various media reports indicate the involvement of children aged 15–18 in serious criminal acts. The types of crimes committed by this age group are very diverse, ranging from theft and sexual violence to physical violence and other serious crimes. This phenomenon reflects that although adolescents at this age are in a

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significant developmental phase where critical thinking and self-control skills are developing, children who commit serious violations of the law must still be held criminally accountable in a manner proportionate to the characteristics and seriousness of their actions so that the role of the criminal justice system can achieve its objectives.

Based on information from the official website of the Ministry of Women's Empowerment and Child Protection (PPPA), the implementation of the SPPA Law is intended to reconstruct the criminal justice system to be more responsive to the protection of children's rights, with an emphasis on the principle of restorative justice for both perpetrators and victims of criminal acts. However, the escalating number of criminal cases categorized as very serious offenses involving children as legal subjects indicates that existing regulations have not fully addressed the complexity of the problem. This condition emphasizes the urgency of formulating more adaptive and contextual penal policies, particularly in determining the types and forms of sanctions for child perpetrators of crimes between the ages of 15 and 18. Reforming the criminal justice system for children is a normative necessity that not only reflects the principle of justice but also strengthens the restorative approach within a framework of proportional criminal responsibility and is oriented towards social reintegration. The old retributive paradigm needs to be transformed into a model of juvenile justice that is humanistic, progressive, and just.

The focus of this research's reforms is specifically directed at the criminal responsibility of children in conflict with the law between the ages of 15 and 18. Normatively, the criminal law system positions a certain age limit as an indicator of a person's ability to be held accountable for actions classified as criminal offenses. In this context, the Child Protection and Protection Act stipulates that children have the right to receive different legal treatment, including lighter sanctions compared to adult perpetrators. However, based on the data collected and the data described previously, it was found that children in this age group are often involved in serious crimes that are categorized as very serious offenses. This reality indicates that the escalation of crime involving children has reached an alarming level and indicates an emergency situation that requires a more decisive and measured normative response and policy.

Reforming the criminal justice system for children in conflict with the law, particularly

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those aged 15 to 18, is a normative necessity that cannot be postponed. This age range marks a complex psychological and social transition phase, where individuals are not yet fully legally mature but have already demonstrated behavioral patterns resembling those of adult criminals, including involvement in very serious offenses. Within this framework, reform is not only oriented towards child protection but also considers the urgency of restructuring the instruments of sentencing.

Researchers view the imposition of criminal penalties on children aged 15–18 as a crucial aspect of the juvenile criminal justice system, given that the effectiveness of legal regulations depends heavily on the extent to which the sanctions imposed are able to carry out preventive and repressive functions proportionally. Criminal sanctions against children must be understood not merely as a form of retribution, but as a means of correction, rehabilitation, and social reintegration. Although criminal sanctions are in the ultimum remedium position, the reality of the rampant involvement of children in serious crimes demands stricter criminal regulations that remain based on the principle of child protection. Considerations for resolving criminal cases involving children should be based on the fundamental principles of child protection in the criminal justice system, which aim to minimize the negative impacts of children's involvement in formal justice mechanisms. This policy orientation must be optimally implemented through a consistent implementation system and the establishment of a firm and measurable age limit for criminal responsibility. This affirmation is crucial to ensuring substantive justice in the process of imposing criminal sanctions on children in conflict with the law. Normatively, the Child Protection Act (SPPA) provides a comprehensive legal framework to address the various challenges in resolving child cases within the criminal justice system. However, its successful implementation depends heavily on the precision of the age limit regulation and the appropriateness of the applied sentencing model.

Every formulation of norms in legislation should be legitimated philosophically. This legitimacy cannot be separated from the context of the basic values that exist and develop in society, especially the philosophical and ethical values that form the foundation of national and state life. Philosophical justification for reforming the criminal justice system for children aged 15-18 must be based on the ideals of Indonesian law, which include the

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values of truth, justice, and morality as a reflection of the Indonesian people's outlook on life as embraced by Pancasila. Therefore, the formulation of criminal justice policies for children who commit crimes at that age must always consider philosophical values in order to produce a legal system that is not only responsive but also ethically and constitutionally legitimate.

A similar view was expressed by Alvi Syahrin, who emphasized that legal reform cannot be considered true if it still relies on legal products originating from the colonial era. In this context, reforming the criminal justice system for juvenile offenders aged 15–18, to be categorized as substantive reform, must move away from the application of colonial-era laws and move toward the development of norms that are more responsive to the needs of society and in accordance with the values of justice and humanity upheld by the Indonesian state.

In the context of children aged 15 to 18 involved in serious crimes, the relevance of the application of leniency as stipulated in the Child Protection and Child Protection Law (UU SPPA) needs to be continuously addressed, given that this age group is on the threshold of adulthood. Although legally classified as children, psychologically and developmentally, they are closer to adulthood. This comprehensive study provides a reflection on whether the sanctions applied should continue to follow the existing leniency model, or whether a more flexible and contextual approach is needed.

Policymakers need to start considering age differentiation in the juvenile criminal accountability system and develop an appropriate sentencing model to achieve sentencing objectives, considering that this is not only a technical legal issue, but also reflects the state's commitment to guaranteeing the future of children as important assets in the continuity of the nation.Based on a comprehensive study of the juvenile criminal justice system as regulated in the SPPA Law, it can be concluded that although the SPPA Law has brought about a paradigm shift in the treatment of children in conflict with the law, there are still a number of fundamental weaknesses that require reform, particularly in terms of differentiating criminal treatment based on age category and responses to serious crimes committed by children.

One crucial weakness identified is the lack of proportional classification of criminal

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treatment between children aged 12–15 and 15–18. In fact, in terms of psychological development, 12-year-olds are at a very different stage of development than 15–18-year-olds. By applying the same rules to the 12–18 age range, the legal system fails to accommodate the principles of proportionality and differentiation in juvenile criminal responsibility, ultimately resulting in substantive injustice in legal practice. In international practice, countries such as those in Europe and the United States have implemented a tiered system approach based on the child's age and level of offense, reflecting a more adaptive, humanistic, and developmentally-based approach to child psychology. This system exemplifies that child protection need not be at the expense of substantive justice, particularly in the face of serious crimes committed by children nearing adulthood.

In an effort to reform the criminal sanctions system for children in Indonesia, legal reform is needed that is oriented towards a value and policy approach (policy and value-oriented legal reform). This reform must consider four main aspects of the legal system: the philosophical aspect (humanitarian values and child protection), the legal principle aspect (the principles of justice, proportionality, and the best interests of the child), the normative aspect (expansion and revision of norms in the SPPA Law), and the sociological aspect (society's needs and expectations for justice and social protection). Within the framework of this reform, researchers offer a model for optimizing criminal sanctions for children aged 15-18 who commit serious crimes.

This maximization is carried out while maintaining the principle of child protection but providing a more proportional and firm response to crimes that endanger society. Concretely, researchers propose that the prison sentence for children who commit serious crimes is no longer limited to 1/2 of the maximum adult criminal threat as regulated in Article 71 paragraph (1) of the SPPA Law, but can be optimized to 2/3 of the maximum adult prison sentence according to Article 81 paragraph (2) of the SPPA Law, accompanied by additional community service sentences of between 7 and 120 hours, as well as correctional sentences outside the institution for a maximum of 2 years.

In addition, for juvenile crimes punishable by death or life imprisonment, the maximum prison sentence, which was originally a maximum of 10 years as stipulated in Article 81 paragraph (6) of the SPPA Law, can be increased to a maximum of 12 years, with the

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addition of non-institutional forms of punishment in the form of community service and out-of-institutional guidance. This model aims to create a balance between child protection aspects and the community's need for justice, while simultaneously preventing impunity in serious crimes. Especially in terms of rearranging the age classification of children and maximizing sanctions for perpetrators of serious crimes aged 15-18 years, it is an integral part of the national criminal law reform policy which aims to make law enforcement more effective, prevent crime, protect society, and guarantee overall social welfare. This reform is not only important normatively, but also relevant philosophically and sociologically, in line with the ideals of national law and the values of Pancasila which place justice, humanity, and protection of children as the main priority in the Indonesian legal system..[1]

CONCLUSION

The provisions on criminal sanctions for children in the Child Protection and Child Protection Law still focus on a rehabilitative approach and child protection. However, for children aged 15-18, who have more mature moral and cognitive capacities, the applicable criminal sanctions do not fully reflect proportionality to serious crimes. This raises the urgency of formulating a sanction model that is fair, educational, and still has a deterrent effect. Current legal regulations need to be updated to be more responsive to legal needs. The concept of reforming criminal sanctions for children aged 15-18 who commit crimes in this study involves optimizing the principal penalty in serious crime cases, from 1/2 to 2/3 of the adult penalty, as well as adding community service and out-of-institutional counseling. In the context of cases involving cases with a maximum penalty of death or life imprisonment, the maximum sentence is proposed to be 12 years. This model prioritizes child protection and a proportional response in accordance with national legal ethics.

The government and policy makers need to revise the SPPA Law by adding provisionsspecifically for children aged 15–18, especially in cases of serious crimes. This formulation must consider the psychological development and moral responsibility of children of that age. Differentiation of treatment is necessary to avoid generalizing sanctions

[1]Alvi Syahrin, Martono Anggusti, and Abdul Aziz Alsa, Op.Cit., p. 56.

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across all ages. Policymakers should be able to formulate a new, flexible criminal sanction model based on individual psychological and social assessments of the child perpetrator. This model should combine educational punishment with rehabilitation and restoration of relationships with victims, while still placing responsibility on the perpetrator.

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