



Implementation Of Legal Protection Against Child According To The Law Number 11 Year 2012 Concerning Juvenile Justice System

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ABSTRACT: The Law Number 11 year 2012 concerning Juvenile Justice System (Criminal Justice System of Children) is a legal product which is the main reference in dealing with child problems dealing with law in Indonesia. The problem that is often faced by law enforcement officials, especially investigators, prosecutors and judges appointed to handle child cases is the implementation of providing legal protection to children in the settlement of child cases in accordance with those regulated in the juvenile criminal justice system. Legal protection for children begins when an investigation is conducted in the police until the criminal case of a child is decided in a court hearing. However, in its implementation there are still several factors that influence the implementation of legal protection, namely the lack of public understanding of legal protection, especially for children who are dealing with the law and public distrust of the Indonesian courts. The role of law enforcement officers is optimal, although there are still effects that hinder the implementation of legal protection for children, therefore the parties involved in the settlement of child cases coordinate and disseminate to the community so that the implementation of legal protection can be carried out properly.

KEYWORDS: Implementation, Juvenile Justice System, Legal Protection Against Child.

Received 15 September, 2018; Accepted 01 October, 2018 © The author(s) 2018. Published with open access at www.questjournals.org

I. INTRODUCTION

Indonesia as a country that upholds human rights, guarantees the protection of children's rights which is the future of the nation, including the survival of children, growing and developing children and for protection from violence and discrimination. Even though in this case, the child is the perpetrator of a crime. Fulfillment of the Rights of the Child and how the process of resolving the Criminal Case conducted by the Child is regulated in several regulations, such as Law No. 39 of 1999 concerning Human Rights which states that every child has the right to protection by parents, family, society and the Country.

Progress and development that has a positive impact on society in Indonesia, but it cannot be denied that this development also has a negative impact on the community, evidenced by the increasing quality and quantity of various types of crime in Indonesia. Even the perpetrators of these crimes are not only adults, children who are the future of the nation are ensnared and even involved in various crimes that occur in Indonesia.

National and International Laws and Regulations also ratify the International Convention on the rights of children implemented in Law No. 23 year 2002 concerning Child Protection which has been amended by Law No. 35 year 2014 concerning Amendments to Law No. 23 year 2002 concerning Child Protection and Law Number 11 year 2012 about Juvenile Justice System (concerning the current Child Criminal Justice System).

Increasing the number of criminal acts involving children today is very alarming, it can be said that crime or criminal acts involving children have developed in the quantity and quality of their actions. From the quantity of criminal acts this child can be seen with more and more print and television media that contain and display criminal cases involving children. Whereas in terms of the quality of the criminal offenses of the child, it can be seen from the increasingly diverse ways used by both the child and adult actors to commit a crime, various opportunities, places and the environment that allows the occurrence of criminal acts involving the child. The number of people in Indonesia who still lack understanding about the rights and obligations of children when dealing with the law, including in terms of legal protection obtained by children, both children as

perpetrators, children as witnesses and children as victims of a crime in every process of the court level begins from the stage of investigation, prosecution and examination in court proceedings.

II. METHODS OF THE RESEARCH

Type Of Research

This type of research uses normative-empirical research methods. Basically it is a combination of normative legal approaches with the addition of various empirical elements. Normative-empirical research method concerning the implementation of normative legal provisions (laws) in its action on any particular legal event that occurs in a society in this case the fulfillment of the rights and obligations of children who are dealing with the law. Research on the implementation of legal protection according to Law Number 11 year 2012 about Juvenile Justice System (Criminal Justice System of Children) against children as perpetrators, children as witnesses and children as victims of a crime in Makassar City.

Research Sites

This research was conducted in Makassar, namely in The Makassar District Court, The Makassar State Prosecutor's Office and The Police Resort of Makassar (Polrestabes), the author conducted interviews with 1 (one) prosecutor, 1 (one) judge and 1 (one) police investigator, arguing that the three locations were included in the juvenile justice process where each law enforcement officer including child investigators, child prosecutors and child judges had duties and its own obligations in completing a criminal act that involves the child by continuing to pay attention to and fulfill the needs, rights, obligations and interests of the child.

III. RESEARCH RESULT AND DISCUSSION

Implementation of Legal Protection for Children in Makassar City

In this discussion, it will be explained about the implementation of legal protection for children who are dealing with the law, starting at the level of investigation and investigation by a child investigator in the Police in this case at the Police Resort of Makassar (Polrestabes), then at the level of prosecution in the Makassar District Prosecutor's Office by a special child investigator and examination at the trial until the reading of the decision in the Makassar District Court.

Law No. 11 Regarding the Juvenile Justice System Article 26 regulates investigators who can conduct investigations on child crimes, where investigations are carried out by investigators who are determined based on the Decree of the Chief of the Indonesian National Police or other officials appointed by the Chief of the Indonesian National Police. Child criminal investigators are also required to fulfill several requirements, namely having experience as investigators, having interest, attention, dedication, and understanding the child's problems and have attended technical training on juvenile justice. However, if there is no investigator who meets the intended requirements, the task of investigation is carried out by the investigator who carries out the task of investigating the crime committed by an adult.

Investigations carried out in child crimes, investigators are required to ask for consideration or advice from community counselors, experts, education, psychologists, psychiatrists, religious leaders, professional social workers or social welfare personnel, and other experts. This is so that the investigation process goes well by prioritizing children's interests. The whole process of proving child crime in the Juvenile Justice System Law is required to seek Diversion.

Child Investigators on how the implementation of legal protection for Children can be concluded that so far in every case the Children handled in the Police, always prioritize all forms of legal protection for the Child, fulfill the interests of the rights and obligations of the Child in every process of investigation and investigation in the Police which is already applied in accordance with what has been regulated in Law Number 11 year 2012 about Juvenile Justice System which is regulated in Article 26 through Article 29.

The form of legal protection provided to children at the police investigation level in Makassar is, among others, assistance from lawyers, from the Penitentiary Center (BAPAS), and from the Social Service Office. In addition to mentoring, children are also given guidance in the Child Welfare Organizing Institution (LPKS) for Children as perpetrators if the family of the child perpetrator is considered unable to guarantee the welfare of his child and depends on the environmental conditions of the child's residence. The Child Welfare Organizing Institution (LPKS) itself is located on Salodong Street, Makassar City. Unlike the victims, in addition to mentoring the form of legal protection is guidance at Integrated Services Center for Empowering Women and Children (PPTPPA) at Neighbourhood and Hemlet levels in 10 sub-districts in Makassar City.

The prosecution process in the Prosecutor's Office is regulated in Law No. 11 year 2012 about Juvenile Justice System in the fourth section of Article 41 which explains that the prosecution of children is carried out by the public prosecutor based on the determination of the Decree of the Attorney General or other officials appointed by the Attorney General. The Public Prosecutor who is determined must fulfill several conditions, namely having experience as a public prosecutor, having interest, attention, dedication, and understanding the

child's problems and having attended technical training on juvenile justice. This is so that the appointed Public Prosecutor understands at least the Child's problem. If there is no public prosecutor who fulfills the requirements, the prosecution task is carried out by the public prosecutor who carries out the task of prosecution for criminal acts committed by adults. This is a form of legal protection for children in the prosecution process at the prosecutor's office, namely by mentoring. In the prosecution process, the Public Prosecutor is also required to seek Diversity.

The prosecution process carried out in the case of a child continues to pay attention to the interests of the rights and obligations of the child as well as its legal protection and available evidence and legal protection in the process of proving it refers to the Law No. 11 year 2012 concerning Juvenile Justice System (Criminal Justice System of Children). The form of legal protection given to children is the accompaniment of children to the prosecution process which is delegated in court and coaching. Assistance is provided from the prosecutor's office, psychologists, and social services. Regarding detention, detention can be carried out by fulfilling the requirements, namely, the child is 14 (fourteen) years or older and is suspected of committing a crime with the threat of confinement of 7 (seven) years or more.

Examination in the Court proceedings against cases of child crimes regulated in Law No. 11 year 2012 about Juvenile Justice System in the sixth section of Article 52 through Article 62 which explains that the head of the court is obliged to establish a Judge or Judge to handle cases of the Child no later than 3 (three) days after receiving the case file from the Public Prosecutor. Examination at the Court Session must be pursued by the Judge at the latest 7 (seven) days after being determined by the head of the district court as Judge.

Law No. 11 year 2012 about Juvenile Justice System, it is stipulated that the child is tried in a special courtroom for the child and that the waiting room of the Children's court is separated from the court waiting room of the adult. When the trial of the Child's case takes precedence over the time of the adult hearing. The form of legal protection given in the examination of a child's case is that the examination of a child's case must be conducted in a closed way in a special courtroom for a child. But the Judge can determine that the case examination is conducted openly, without prejudice to the rights of the Child if deemed necessary by looking at the nature and circumstances of the case whether it should be done openly or not. Readings of court decisions are made in a court session which is open to the public and may not be attended by the child. The identity of the child, child victim, and / or child of the witness must still be kept secret by the mass media by using only the initials without images.

Judges who adjudicate child cases in Makassar have followed and implemented and implemented legal protection in every procedure and process in accordance with the provisions of Law No. 11 year 2012 about Juvenile Justice System and implement the provisions of the Criminal Procedure Code (KUHP) which are not regulated in the Juvenile Justice System Law. The judge appointed to deal with the case continues to pay attention to and prioritize the rights and obligations of the child, including the form of legal protection given to the child either as a child or as a child as a witness in accordance with what has been regulated in Law Number 11 year 2012 concerning Juvenile Justice System.

Factors Affecting the Implementation of Legal Protection for Children in Makassar City

Influencing factors The implementation of legal protection for children in a criminal act for police investigators in Makassar is a factor of understanding of children that is difficult to understand (in providing an explanation of the rights and obligations of children sometimes misunderstood) other than that, psychological and mental children are different from adults so Investigators must be careful with the psychology of the child in carrying out the investigation process. The investigator also added that the factor of public distrust, especially the family of children with criminal justice in Indonesia. Another factor that also influences the implementation of legal protection for children at the investigation level is the stigma of the community stating that every mistake must be punished, this has led to the need to be given understanding to the community that if the wrongdoer or violation is a child and is still in the category of children in underage, the child cannot be convicted because the conditions for carrying out criminal sanctions for children if they fulfill the requirements include, among others, 14 (fourteen) years of age and not yet reaching 18 (eighteen) years and married children even though they have not reached 18 (eighteen) years considered to be mature.

In addition, facilities and infrastructure do not support such as a children's examination room which must be separated from one another because of the fact if done the examination of a child's crime simultaneously still has a psychological effect on the child. The absence of a system that regulates and stores data whether a child has committed a repeat of a crime or not that can be accessed and becomes an inventory of police records throughout the region in Indonesia.

The uncooperative attitude of the child also influences and causes misinterpretation of legal protection that will be given to children. Another factor is that a very short period of child detention also affects because the period of detention of a child in the Attorney's Office is 5 (five) days at the most and can be extended for a maximum of 5 (five) days far different from the period of adult detention. Prosecutors must work harder in the

prosecution process to complete before the period of detention is completed and all rights and obligations and legal protection are fulfilled for the child. The period of detention of children in the District Court in the examination process is a maximum of 10 (ten) days and can be extended for a maximum of 15 (fifteen) days. In the examination in court, it takes quite a long time to remember that the defendant is a child who has a mental and psychological difference from an adult so that law enforcement officials must pay attention to factors that can affect the growth of children.

IV. CONCLUSION

Based on the research results that the author has described above, there are some conclusions related to the formulation of the problem from this paper. the conclusions of the research are as follows.

1. Implementation of Legal Protection for Children in Makassar City:

Implementation of Legal Protection for Children in Makassar nowadays its application is in accordance with what has been stipulated in Law Number 11 year 2012 about Juvenile Justice System. Every level in the Juvenile Justice System still takes into account the legal protection of children, ranging from the level of investigation and investigation in the Police, the level of prosecution in the Prosecutor's Office and at the level of examination at the Court hearing. Some forms of legal protection for children become a unity in the juvenile justice process. The following are some forms of concrete protection given to children:

- a) Assistance from Parents / Family, Lawyers, correctional center (BAPAS), and Social Services.
- b) For Child Actors given guidance in the Social Welfare Organizing Institution (LPKS) at Salodong Street, Makassar City.
- c) For Witness Children and Children Victims are given guidance at shelters (safe places) Integrated Service Centers for Women and Children Empowerment (PPTPPA) at Neighbourhood and Hemlet levels in 10 sub-districts in Makassar City.

2. The Factors that affecting the implementation of legal protection for children in Makassar City:

- a) Lack of the number of law enforcement officers who understand children's problems;
- b) Lack of understanding of the community regarding child protection;
- c) Mental and psychological children;
- d) Facilities and infrastructure that are less supportive;
- e) Public distrust of the judiciary in Indonesia.

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Muhammad Fachrul Firmansyah "Implementation Of Legal Protection Against Child According To The Law Number 11 Year 2012 Concerning Juvenile Justice System" *Quest Journals Journal of Research in Business and Management*, vol. 06, no. 03, 2018, pp79-82