



Juridical Analysis Of Children Carrying Sharp Weapons In The Tauran Action In Bogor City Is Reviewed In Law Number 35 Of 2014 Concerning Child Protection

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Special Issue
(February, 2025)
e-ISSN 2716-5191

ARTICLE INFO

Article history:

Received: 03 Februari 2025

Revised version received: 23 Februari 2025

Accepted: 25 Februari 2025

Available online: 25 Februari 2025

Keywords:

sharp weapons, children, Child protection

How to Cite:

Dewi Nazlah Kusumah, Jacobus Jopie Gilalo, Rizal Syamsul Ma'arif. 2025.

"Juridical Analysis Of Children Carrying Sharp Weapons In The Tauran Action In Bogor City Is Reviewed In Law Number 35 Of 2014 Concerning Child Protection." *Jurnal Hukum DE'RECHTSSTAAT*.

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ABSTRAK

Anak perlu dilindungi dari dampak negatif pembangunan yang pesat, arus globalisasi di bidang komunikasi dan informasi, kemajuan ilmu pengetahuan dan teknologi, serta perubahan gaya dan cara hidup sebagian orang tua yang telah membawa perubahan sosial yang mendasar dalam kehidupan masyarakat yang berdampak besar pada nilai-nilai dan perilaku anak. Perilaku menyimpang atau perbuatan melawan hukum yang dilakukan anak antara lain disebabkan oleh faktor di luar diri anak. Tujuan penelitian ini adalah untuk menganalisis permasalahan yang sering terjadi yaitu terkait anak yang membawa senjata tajam dalam tawuran di Kota Bogor, dan dikaitkan dengan undang-undang No. 35 Tahun 2014 tentang Perlindungan Anak, dan undang-undang tersebut mengatur tentang hak-hak anak yang perlu dilindungi dari tindak pidana terhadap anak, baik yang dilakukan oleh anak maupun orang tua terhadap anak. Dalam penelitian ini digunakan metode yuridis normatif yaitu dengan menggunakan studi kepustakaan, peraturan perundang-undangan dan perbandingan hukum. Dan data yang digunakan adalah bahan-bahan primer seperti undang-undang dan bahan hukum sekunder seperti buku-buku, jurnal, dan artikel yang membahas tentang hukum pidana anak dan hasil penelitiannya adalah anak yang terlibat tawuran dan membawa senjata tajam dapat dikenai sanksi berdasarkan Undang-Undang Perlindungan Anak, namun tetap harus memperhatikan asas perlindungan anak, dan yang terpenting

adalah pembinaan dan rehabilitasi anak. Dan penegak hukum harus memperhatikan kepentingan hak-hak anak, dan dalam hal ini perlindungan hukum yang berlebihan. Dan simpulan dari penelitian ini adalah perlindungan anak dalam kasus tawuran harus dituntaskan dengan melakukan rehabilitasi dan pencegahan, serta memperkuat peran orang tua, masyarakat, dan pemerintah dalam mendidik anak agar menjadi anak yang baik.



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ABSTRACT

Children need to be protected from the negative impacts of rapid development, the flow of globalization in the fields of communication and information, advances in science and technology, as well as changes in the style and way of life of some parents which have brought about fundamental social changes in people's lives which have a big impact on values. and child behavior. Deviant behavior or unlawful acts committed by children, among other things, are caused by factors outside the child. The purpose of this research is to analyze the problems that often occur, namely related to children who carry sharp weapons in brawls in the city of Bogor, and are associated with law No. 35 of 2014 concerning Child Protection, and the law regulates the rights of children that need to be protected from criminal acts against children, both committed by children and parents against children. In this study, a normative juridical method is used, namely by using literature studies, laws and legal comparisons. And the data used are primary materials such as laws and secondary legal materials such as books, journals, and articles that discuss children's criminal law and the results of his research are that children who are involved in brawls and carry sharp weapons can be sanctioned under the Law on Child Protection, but there must still be attention to the principle of child protection, and the most important thing is the coaching and rehabilitation of children. And law enforcement must pay attention to the interests of children's rights, and in this case, excessive legal protection. And the conclusion of this study is that the protection of children in cases of brawls must be completed by carrying out rehab and prevention, as well as strengthening the role of parents, the community, and the government in educating children to be good.

1. Introduction

The ownership of sharp weapons in Indonesia is relatively free, where people can easily own such sharp weapons. The freedom of circulation of sharp weapons occurs because sharp weapons have become part of people's lives. Sharp weapons are used in various daily activities, such as knives for cutting meat, sickles for farming, and various other types of sharp weapons that support the needs of people's lives. However, there are also groups or individuals who abuse sharp weapons with the aim of attacking others, which is a form of aggressive behavior.¹

Children need to be protected from the negative impacts that arise due to rapid development, especially in the flow of globalization in the field of communication and information, advances in science and technology, and changes in the lifestyle of some parents

¹ Sihotang, Ricardo. "Criminal Responsibility Of Combatants Carrying Sharp Weapons (Study Decision No. 394/Pid.Sus/2020/Pn.Sbg)." (2022).

that fundamentally affect social life. This greatly affects children's values and behavior. Deviant behavior or violations of the law committed by children are generally influenced by external factors outside of themselves. Every year, cases of child delinquency continue to increase, both in terms of number and pattern of action, which often disturbs the community, especially parents. The increase in cases of violence by children is often not in line with their age. Therefore, efforts to prevent and overcome child delinquency must be carried out seriously immediately.²

Based on the objectives of the State of Indonesia, which is related to the protection of children in the legal field, various laws and regulations have been issued. Among them are Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, Law No. 4 of 1979 concerning Child Welfare, and Law No. 3 of 1997 concerning Children's Court, which was later perfected through Law No. 11 of 2012 concerning the Child Criminal Justice System. The presence of the law shows Indonesia's commitment to child protection, including for children with legal problems.³

The purpose of this research is to analyze problems that often occur, namely related to children carrying sharp weapons in fights in Bogor City, and related to Law no. 35 of 2014 concerning Child Protection.

2. Method

The approach method used is a normative juridical approach, namely by using literature study or a statutory approach, a comparative legal method. This research focuses on the analysis of the regulations in Law Number 35 of 2014 concerning Child Protection and other related laws that regulate child crimes. The data used is primary legal materials, such as laws, as well as secondary legal materials relevant to the topic, such as literature on child protection, legal journals, and articles discussing juvenile criminal law.

3. Results And Discussion

Law enforcement is an effort to realize legal ideas and concepts into a tangible form. This process aims to realize the will of the law, namely the thoughts of the lawmakers as outlined in the legal regulations. The discussion of law enforcement also includes the process of law formation itself. The thinking of lawmakers formulated in legal regulations plays an important role in determining the implementation of law enforcement.

Good law should be designed by taking into account various interests, such as public interests (especially state interests), individual interests, and personal interests. Therefore, the formation of laws needs to balance these various interests, taking into account the factors that affect society, both now and in the future. The public interest, especially the interest of the state, includes the protection of the existence of the state, supervision, and efforts to improve social welfare. In addition, the law must pay attention to the laws that live in society, namely the balance between written and unwritten laws.

The development of law is greatly influenced by ideological, political, social, and cultural conditions. Therefore, the law not only reflects the wishes of the government, but must also

²Angger Sigit Pramukti, Sh, And Sh Fuady Primaharsya. *Juvenile Criminal Justice System*. Mediapressindo, 2018.

³Syuhada, Wahyu, And Ramadan Syahmedi Siregar. "Juridical Analysis And Views Of Islamic Criminal Law On Children Who Carry Sharp Weapons For Brawls." *Review: Social Journal Of Religious Education Laa Roiba* 5.6 (2023): 3326-3343.

consider various other factors. Law enforcement must also pay attention to certain situations and conditions, including factors that affect the occurrence of crimes. By understanding the causes of crimes, their resolution and handling can be carried out effectively and efficiently, so that similar problems can be prevented in the future.⁴

Sharp weapons in a positive sense are a tool for self-defense, defending state sovereignty, law enforcement, but in a negative sense the use of sharp weapons and unlawfully will disrupt public order (criminal acts) and are a threat to the Unitary State of the Republic of Indonesia. The problem of misuse of firearms is a very dangerous and high-risk thing. The misuse of sharp weapons can result in the loss of one or 2 people's lives. The law that regulates the classification of sharp weapons is Law Drt. No. 12/1951 which reads: *Whoever without the right to enter into Indonesia, makes, receives, attempts to acquire, gives or attempts to deliver, possesses, carries, has supplies on him or possesses in his possession, stores, transports, conceals, uses or removes from Indonesia a slag-, steek-, or stootwapen weapon shall be punished with imprisonment for a maximum of ten years.*⁵

Child Judges regulated in Article 43 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System have similarities with Child Judges regulated in Articles 9 and 10 of Law Number 3 of 1997 concerning Children's Courts. The difference lies in the addition of a requirement in Article 43 of Law Number 11 of 2012, namely that juvenile judges must have participated in technical training regarding juvenile justice. In addition, Law Number 11 of 2012 also includes other advances, such as those listed in Article 52, which regulates certain deadlines in the process of resolving children's cases, ranging from the appointment of judges to the Diversion process. Article 53 also regulates special courtrooms for children, the separation of waiting rooms between children and adults, and the priority of children's trial time compared to adult trials. Under the Children's Court Act, children who can be legally prosecuted are those aged 8 years and above, with different procedures compared to adults.⁶

The legal review of the possession of sharp weapons by children in Indonesian law is not specifically regulated in the Criminal Code (KUHP). On the other hand, criminal acts related to sharp weapons are regulated in the Emergency Law of the Republic of Indonesia Number 12 of 1951. However, this law is emergency and made for urgent purposes, so there may be shortcomings in its provisions. In addition, considering that this law has been enacted since 1951, of course there is a significant difference between the conditions at that time and the current development of criminal law. A person who violates the provisions of Emergency Law Number 12 of 1951 clearly violates the law and must be responsible in accordance with the applicable legal provisions. In this case, the judge is authorized to impose a criminal sentence on the party who is proven to have committed the violation, by fulfilling the terms or conditions of the penalty regulated in the criminal law.

⁴ Hakim, Lukmanul, And Risti Dwi Ramasasi. "Criminal Liability For Students Involved In Brawls Carrying Sharp Weapons In The School Environment." *Journal Of The Law Of The Republic* 23.01 (2023): 1-10.

⁵ Wijaya, Harja, Nasrullah Arsyad, And Nur Fadhilah Mappaselleng. "Juridical Review Of Violators Of Possession Of Sharp Weapons." *Qawanin Journal Of Law* 2.1 (2021).

⁶ Saenal, Saenal. *Investigation Of The Crime Of Carrying Or Storing Sharp Weapons Without Rights By Children (Gowa Police Case Study)*. Diss. Indonesian Muslim University, 2023.

An analysis to prove the Public Prosecutor's allegation that the defendants have committed the crime of possession of sharp weapons together, in accordance with the provisions of Article 2 paragraph (1) of the Emergency Law of the Republic of Indonesia Number 12 of 1951, which states that "without the right and unlawful possession, carrying a sharp weapon without permission from the authorities," must ensure that all elements of the criminal act are met. The elements of the crime of possession of sharp weapons are as follows: Article 2 Paragraph (1) of the Emergency Law of the Republic of Indonesia Number 12 of 1951:

- a. Everyone
- b. Without rights or against the law
- c. Possessing, carrying a sharp weapon without permission from the authorities.⁷

In Indonesia's positive legal system, in order to handle cases of the use of sharp weapons by minors, the government issued Emergency Law Number 12 of 1951 concerning Temporary Measures to Organize the Unity of the Composition of Powers and Proceedings of the Civil Courts, as a preventive measure against the use of sharp weapons in the country. It is hoped that the existing law can realize the ideals of law, namely legal certainty (Rechtssicherheit), justice (Gerechtigkeit), and usefulness (Zweckmasigkeit). However, over time, the emergency law is no longer effective, which causes the circulation of sharp weapons in society to increase and get out of control, thus allowing minors to also have sharp weapons.⁸ the author believes that there is a need for more indepth research regarding the level of awareness (users) of commercial song users to also look at the exclusive rights owned by musicians/songwriters so that no one feels that their rights have been neglected.⁹ According to Endeh Suhartini, the importance of legal development in Indonesia, especially employment law, will have a positive impact on the industrial community,¹⁰ and Friedman's legal system theory.

4. Conclusions

Law enforcement is a process to realize legal ideas into concrete actions to create justice, legal certainty, and benefits. Law enforcement involves not only the application of established rules but also includes the process of law-making itself, which must consider various interests, such as the interests of the state, individuals, and society. Good law must be adapted to developing social, political, cultural, and ideological conditions, and includes written and unwritten laws. In the context of the use and possession of sharp weapons, the provisions regulated in the Emergency Law No. 12 of 1951 provide strict sanctions to violators. However, this regulation is considered less relevant to the development of the times because of its emergency nature and has been established for a long time. In addition, the issue of the use of sharp weapons by minors shows the need for legal revision that is more in line with the current situation and needs. In terms of handling children's cases, Law No. 11 of 2012 shows progress by

⁷ Yusnandi, Yudi, Mirwansyah Mirwansyah, And Dery Hendryan. "Legal Review Of Child Offenders Who Carry Sharp Weapons In Public Places." *Viva Themis: Journal Of Law And Humanities* 7.1 (2024): 16-31.

⁸ Repi, Aljoshua Jt. "A Sense Of Law Enforcement Against The Use Of Sharp Weapons By Minors." *Estudiante Law Journal* 2.3 (2020): 363-381.

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providing better legal protection, such as special courtrooms for children and processes that consider the interests of children. This shows the importance of adaptive and progressive law in facing current and future challenges. Law enforcement must also be carried out by paying attention to the relevant elements of criminal acts to ensure justice in each case. The conclusion from the above discussion is that law enforcement is a process to realize legal ideas into real actions in order to create justice, legal certainty, and benefits. Law enforcement involves not only the application of established rules but also includes the process of law-making itself, which must consider various interests, such as the interests of the state, individuals, and society.

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