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Law Enforcement Against Children as Perpetrators of Aggravated Theft Committed Jointly: A Case Study of Decision Number: 26/Pid.Sus-Anak/2020/PN.Son

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Abstract

This study analyzes the criminal liability of children as perpetrators of theft with joint aggravation and the judge's legal considerations in Decision Number 26/Pid.Sus-Anak/2020/PN.Son. The research is motivated by the increasing involvement of children in serious crimes, which raises normative tension between the principle of ultimum remedium in juvenile justice and the practical tendency to impose imprisonment, particularly in cases involving aggravating circumstances or recidivism. Within the framework of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, law enforcement is required to prioritize protection, rehabilitation, and the best interests of the child. This study employs a normative juridical method using statutory and case approaches, focusing on the application of Article 363 paragraph (2) of the Criminal Code and relevant provisions governing juvenile criminal responsibility. The findings indicate that the elements of aggravated theft committed jointly were legally fulfilled, thereby establishing the child's criminal liability. The judge imposed a sentence of one year and six months' imprisonment based on juridical considerations, evidentiary facts, and the child's personal circumstances, while formally referring to the principle of the best interests of the child. The contribution of this research lies in evaluating the consistency of judicial reasoning in applying the best interests principle in aggravated theft cases involving children, as well as assessing whether the decision reflects proportionality, legal certainty, and substantive justice within the juvenile criminal justice system.

INTRODUCTION

Law enforcement constitutes a fundamental pillar in realizing the direction and objectives of the state as mandated in the Fourth Paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, particularly in maintaining public order, social justice, and societal welfare. These efforts require an effective legal system and law enforcement officers who are professional and possess strong integrity.[1] In the Indonesian legal system, law is generally classified into private law and public law. Criminal law falls within the category of public law, functioning to maintain order and protect the interests of society. Conceptually, criminal law consists of substantive criminal law and procedural criminal law. Substantive criminal law regulates prohibited acts, subjects of criminal responsibility, and types of sanctions, while procedural criminal law governs the procedures for law enforcement, ranging from investigation to the execution of court decisions. Both must operate harmoniously to ensure that law enforcement is carried out effectively and justly.[2]

In a state governed by the rule of law, every action must be based on legal provisions. This principle particularly binds law enforcement officials who exercise their duties and authorities in accordance with the legal rules that constitute the legitimate basis for law enforcement.[3] The freedom and independence of law enforcement institutions must be properly maintained in order to uphold the pillars of the rule of law and ensure legal certainty, justice, and legal utility.[4] The urgency and role of law enforcement institutions are crucial in realizing a genuine rule-of-law state. The performance of the judiciary, prosecutors, police, and advocates becomes a determining factor in directing law enforcement so that it aligns with the ideals of the Indonesian rule-of-law state. Their success in carrying out their functions and responsibilities serves as a benchmark for public assessment regarding the extent to which the principles of the rule of law are truly implemented.[5]

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[1] Budi Santoso, *Integritas dan Profesionalisme dalam Sistem Hukum* (Jakarta: Sinar Grafika, 2020), hlm. 55.
[2] Lilik Mulyadi, *Hukum Acara Pidana Indonesia: Telaah Sistem Peradilan Pidana*, Cetakan ke-3, (Bandung: Citra Aditya Bakti, 2021), p. 22-25.
[3] Ekel Tuahta Ginting, Janpatar Simamora, "*Peranan Kejaksaan Dalam Pernanganan Perkara Tindak Pidana Narkotika di Kejaksaan Negeri Kota Binjai*", HELIUM-journal of Health Education Law Information and Humanities. Vol 2, No. 1 Februari 2025. p. 859.
[4] Janpatar Simamora, Bintang ME Naibaho, "*Constitutional Guarantees Towards The Principles Of Freedom And Independence Of The Prosecutor's Office In The Exercise Of State Power*". Arena Hukum Vol. 18 N0.2, (August) 2025, p. 199.
[5] Janpatar Simamora, Bintang ME Naibaho, "*Penguatan Landasan Konstitusional Kejaksaan dalam Sistem Ketatanegaraan Republik Indonesia*", Jurnal Konstitusi, Vol 22, Issue 2, June 2025, hlm. 335.

The crime of theft as an offense against property is regulated in the Indonesian Criminal Code (Law No. 1 of 2023), particularly in Article 477. It represents a form of crime that frequently occurs and generates widespread public concern.[6] The primary motive for theft is generally related to economic needs; however, what has become increasingly alarming is the development of aggravated forms of theft. This crime does not merely involve the taking of property but also includes aggravating elements, such as being committed at night, carried out collectively, or using certain tools, and it may even involve violence. Its impact is not limited to material loss but also creates fear, disrupts public order, and reduces public trust in the guarantee of security.

The phenomenon of crime has become increasingly complex due to a shift in the profile of perpetrators, where serious criminal acts that were previously associated with adults are now increasingly involving children. Juvenile crime refers to unlawful acts committed by children, commonly known as juvenile delinquency, which involves deviant behavior that contradicts legal and social norms.[7] Juvenile delinquency has evolved into more serious and complex forms, exceeding ordinary adolescent misbehavior. Law enforcement authorities are increasingly handling cases involving children who participate in serious crimes, including aggravated theft committed jointly.[8] The increasing involvement of children in serious criminal acts necessitates a legal system that is not solely oriented toward punishment but also emphasizes protection and rehabilitation for children as offenders. The enactment of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System represents the state's commitment to providing a special mechanism for handling children in conflict with the law. This regulation prioritizes approaches based on the best interests of the child and the principles of child protection.[9]

The Juvenile Criminal Justice System Law strictly defines the status of children in conflict with the law as those who have reached the age of 12 but have not yet reached 18 years old, as stipulated in Article 1 point 3 of Law No. 11 of 2012. This provision has several important implications:

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[6] R. Soesilo, *Kitab Undang-Undang Hukum Pidana (KUHP) serta Komentar Komentarnya Lengkap Pasal Demi Pasal*, (Bogor: Politeia, 2017), p. 240-243.
[7] Karolus Kanefo Lafau, Janpatar Simamora, "*Accountability for Criminal Acts of Child Abuse Committed by Children with a Restorative Justice Approach*", Golden Ratio of Data in Summary; Data In | Law, Plitics, Public Administration, Vol.5, Issue.1 (2025), p. 37.
[8] Topo Santoso, *Kriminologi*, (Jakarta: Raja Grafindo Persada, 2019), p. 165-170.
[9] Undang-Undang Republik Indonesia Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak, Pasal 1 Angka 3.

1. Children under the age of 12 cannot be held criminally responsible and their handling is oriented toward guidance and development.
2. The Juvenile Criminal Justice System Law shifts the paradigm of juvenile justice from a retributive approach to a restorative and rehabilitative one.
3. Children who have married before the age of 18 are processed as adults through the general court system.

The main problem in cases of aggravated theft involving children lies in the implementation of law enforcement that still upholds the principle of child protection, particularly when the crime is committed collectively and requires careful differentiation of roles and responsibilities.[10] Aggravated theft committed jointly by children creates complexity in law enforcement because each child may have a different role, such as planner, executor, or supervisor. Distinguishing these roles is essential to determine the degree of culpability and the proportional sanction in accordance with the level of involvement of each child.[11]

The law enforcement process against groups of child offenders faces two demands that often conflict with each other. First, law enforcement officials are required to resolve cases swiftly and impose deterrent sanctions in order to maintain public order and security. Second, they are obligated to guarantee the rights of children by ensuring that all judicial processes adhere to the principles of the best interests of the child and non-discrimination.[12]

The provisions of the Juvenile Criminal Justice System Law concerning diversion and restorative justice aim to restore the relationship between victims and offenders and to avoid the stigmatization of criminal punishment against children. However, their implementation in cases of aggravated theft committed collectively often encounters obstacles, particularly due to the magnitude of losses suffered by victims or the victims' refusal to accept restorative mechanisms.[13]

Decision Number 26/Pid.Sus-Anak/2020/PN.Son illustrates the complexity of law enforcement against children who commit aggravated theft collectively. This study aims to examine the criminal responsibility of children, the judicial considerations in imposing

[10] Muladi. "*Restorative Justice dalam Sistem Peradilan Pidana Anak di Indonesia*". Jurnal Hukum dan Pembangunan, Vol. 44, No. 2 (2014), p. 145-160.
[11] Sudikno Mertokusumo, "*Hukum Acara Pidana Anak dan Permasalahannya*", Jurnal Hukum dan Pembangunan, Vol. 45 No. 2 (2020), p. 189.
[12] Harkristuti Harkrisnowo, *Perlindungan Anak dalam Sistem Hukum Pidana Indonesia*, (Jakarta: Grasindo, 2019), p. 78.
[13] I Made Pasek Diantha, "*Diversi dalam Sistem Peradilan Pidana Anak:Implementasi dan Tantangan*", Jurnal Dinamika Hukum, Vol. 21 No. 1 (2021), p. 55.

proportional sanctions, and compliance with the special procedures of juvenile justice, including assistance by Community Counselors.[14]

Law enforcement against children who commit aggravated theft collectively constitutes a crucial issue that requires in-depth examination. This research aims to analyze the criminal responsibility of children in judicial practice in order to support the development of juvenile criminal law, the formulation of constructive policies, and the improvement of the quality of the Juvenile Criminal Justice System in Indonesia.[15]

METHODS

This study focuses on examining criminal liability in the law enforcement process involving children who commit aggravated theft, as well as analyzing the legal considerations of judges in Decision Number 26/Pid.Sus-Anak/2020/PN.Son. The method employed is normative juridical legal research. The approaches applied include the statute approach to examine provisions in the Indonesian Criminal Code and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the case approach to analyze the application of legal norms in practice through the study of court decisions, and the conceptual approach to construct the concepts of juvenile criminal responsibility, the principle of the best interests of the child, and the principle of *ultimum remedium* in the juvenile criminal justice system.

The data used in this study consist of secondary data, including primary legal materials in the form of legislation and Decision Number 26/Pid.Sus-Anak/2020/PN.Son, as well as secondary legal materials such as the opinions of legal scholars contained in books, scientific journals, and other relevant academic works. The data were analyzed qualitatively using legal interpretation techniques, including grammatical, systematic, and teleological interpretation, in order to understand the meaning of legal norms and their conformity with the objectives of establishing the Juvenile Criminal Justice System.

The selection of this decision as the object of study is based on its academic urgency, as the case represents an instance of aggravated theft committed jointly by children that resulted in imprisonment, making it relevant for evaluating the consistency of the application of child protection principles and the best interests of the child in judicial practice. The results of the analysis are presented systematically and descriptively by

[14] Teguh Satya Bhakti, "*Diskresi Hakim dalam Putusan Pidana Anak*", (Yogyakarta: Deepublish, 2020), hlm. 140.
[15] Romli Atmasasmita, *Reformasi Penegakan Hukum dan Perlindungan Anak*, (Jakarta: Pustaka Pelajar, 2017), p. 132.

linking them with the theoretical framework and applicable legal provisions in order to comprehensively address the research problems.

RESULT AND DISCUSSION

1. Criminal Liability of a Child as a Perpetrator of Aggravated Theft Committed Jointly (Case Study of Decision Number: 26/Pid.Sus-Anak/2020/PN.Son)

Criminal liability is closely related to a criminal act, as a person can only be punished if it is proven that they have committed a criminal offense. In criminal law, the objective elements include the act and its unlawful nature, while the subjective elements include the capacity for responsibility and the existence of fault, either intentional or due to negligence. A person may only be held criminally liable if they possess the legal capacity to be responsible and have committed an act that meets the criteria of a criminal offense as stipulated in statutory regulations. Punishment may be imposed on a perpetrator if the act committed is contrary to the law and no justification exists that can legitimize the act or eliminate its unlawful nature.[16]

With regard to the capacity for responsibility, only individuals who possess such capacity can be held criminally liable. The principle of criminal liability emphasizes that punishment requires the existence of fault; therefore, a person may only be punished if it is proven that they committed an act punishable by law accompanied by an element of fault.[17]

However, the analysis of juvenile criminal liability cannot be limited merely to the fulfillment of the elements of a criminal offense. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System places diversion as the primary instrument for resolving cases involving children. Therefore, a crucial question that must be raised is whether diversion efforts in this case were optimized and whether a restorative approach was genuinely considered in depth before the imposition of imprisonment.

In this case, although the child had the status of a recidivist, the decision does not provide a comprehensive explanation regarding the failure of previous diversion efforts or the normative reasons why restorative settlement was no longer possible. In fact, recidivism in the context of children is not always identical with an increase in moral culpability but may instead reflect the failure of previous rehabilitation systems.

The determination that a person has committed a criminal offense can only be made if all elements required in a criminal act are fulfilled, namely:

[16] Sudarto. *Hukum Pidana*, Semarang : Yayasan Sudarto, (2000), p.56-57
[17] *Ibid*, p.59.

a. The existence of an act;
b. The act is prohibited by law;
c. The act is punishable by criminal sanctions;
d. The act can be attributed to the perpetrator as criminal responsibility.

The provisions regarding juvenile criminal liability are regulated in the 2023 Criminal Code (KUHP) Articles 40–44 and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. These regulations are based on the principle of child protection by considering the child's intellectual capacity, level of legal awareness, and the need for rehabilitation.[18] Based on Article 40 of Law Number 1 of 2023 concerning the Criminal Code, children under the age of 12 cannot be held criminally liable. Children aged 12–18 may be processed through legal procedures, but with the application of lighter and educational sanctions. In rendering a decision, judges must consider the child's personal condition, social background, and prioritize a rehabilitative approach rather than punitive measures.[19]

According to the view of Moeljatno, before imposing punishment on a perpetrator of theft, it must first be proven that a criminal act that is unlawful—both formally and materially—has occurred. After the existence of such a criminal act is proven, the act must then be connected to the presence of fault on the part of the perpetrator. Thus, in order to impose punishment on a defendant, the following requirements must be fulfilled:[20]

a. The perpetrator has committed an act that qualifies as a criminal offense;
b. The perpetrator has the capacity to be held legally responsible;
c. The perpetrator can be held accountable for the act under the law;
d. There is an element of fault in the act, which may take the form of:
    1) intention (*dolus/opzet*), or
    2) negligence (*culpa*);
    3)
e. No excusing reasons exist that could eliminate the perpetrator's fault.

In Case Number 26/Pid.Sus-Anak/2020/PN.SON, the defendant, Viktorinus Mario Sua (a minor), was charged by the Public Prosecutor with committing aggravated theft in violation of Article 363 paragraph (2) of the Criminal Code, which in Law Number 1 of 2023 concerning the Criminal Code is regulated under Article 477 paragraph (2), as

[18] Kitab Undang-Undang Hukum Pidana, Pasal 45 sampai dengan Pasal 47. Undang-Undang Republik Indonesia Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak, Lembaran Negara Republik Indonesia Tahun 2012 Nomor 153, Tambahan Lembaran Negara Republik Indonesia Nomor 5332.
[19] Andi Hamzah, *KUHP dan KUHAP edisi revisi*, (Jakarta:PT Rineka Cipta,2016), p. 23.
[20] *Ibid,* p.68.

stated in a single indictment. Based on this charge, the Public Prosecutor demanded that the defendant be sentenced to nine years of imprisonment.

Based on the study of legal theory and the facts revealed during the trial, the defendant was declared legally proven to have committed aggravated theft as regulated in Article 363 paragraph (2) of the Criminal Code. In the decision, the Panel of Judges of the Sorong District Court sentenced the defendant, who was 16 years old, to imprisonment for one year and six months, taking into account aggravating and mitigating factors as well as the assistance report from the Correctional Center (*Balai Pemasyarakatan* – BAPAS). A person may only be punished if all elements of the criminal offense have been legally proven and no justifying or excusing reasons are found. Based on this reasoning, the criminal sanction imposed in this case may be considered appropriate, balanced, and in accordance with applicable legal provisions. Therefore, the author supports the decision of the panel of judges because the defendant was legally proven to have committed aggravated theft as regulated in Article 363 paragraph (2) of the Criminal Code in conjunction with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.[21]

The author's analysis regarding the criminal liability of a child as a perpetrator of aggravated theft committed jointly in this decision is based on the theory of criminal liability. The concept of criminal liability can be viewed from two main perspectives. First, from the perspective of the occurrence of the criminal act, a person can be held liable if their act is proven to be contrary to applicable legal provisions. Second, from the perspective of the capacity for responsibility, criminal liability can only be imposed on perpetrators who are legally considered capable of being responsible for their actions and who meet the requirements of criminal liability, as follows:[22]

a. Capacity for Responsibility

The capacity for responsibility relates to the psychological condition of the perpetrator and constitutes an important element of criminal liability. Judges must assess the presence or absence of this capacity before imposing punishment. If a perpetrator is proven not to possess such capacity, they cannot be punished. The Criminal Code does not explicitly regulate the capacity for responsibility but instead regulates circumstances that eliminate such capacity.[23]

In this case, objectively based on witness testimonies, the defendant's statement, and the evidence presented in court, legal facts were established confirming that the identity

[21] Andi Hamzah, *Hukum Pidana Indonesia*, Sinar Grafika, Jakarta, 2019, p. 102.
[22] Roeslan Saleh, *Perbuatan Pidana dan Pertanggungjawaban Pidana*, (Jakarta: Aksara Baru, 1983), hlm. 76.
[23] Lamintang, *Dasar-Dasar Hukum Pidana Indonesia*, (Bandung: Citra Aditya Bakti, 2013), p. 144.

of Viktorinus Mario Sua as stated in the case file was correct and acknowledged. From these facts, it was proven that the defendant was a minor who, according to legal provisions, was still categorized as not yet an adult. As stipulated in Articles 38–40 of Law Number 1 of 2023 concerning the Criminal Code: Article 38 states that persons with mental or intellectual disabilities may have their punishment reduced or be subject to measures; Article 39 provides that persons with acute mental (psychotic) disorders or moderate to severe intellectual disabilities are not punished but only subject to measures; and Article 40 stipulates that children under 12 years of age cannot be held criminally liable.

In this case, the defendant cannot be considered an adult because he was 16 years old. Under the Juvenile Criminal Justice System Law, individuals aged between 12 and 18 years may be held legally accountable but with lighter sanctions. The decision explains that the defendant, although a minor, was physically and mentally healthy and possessed the ability to think and understand the consequences of his actions. The child was also considered capable of determining his will consciously. Subjectively, as a legal subject, the child was not in a condition that could eliminate criminal responsibility. Therefore, based on the defendant's identity and condition, he could still be held accountable for his actions.

b. Commission of a Criminal Act

A criminal act is a fundamental element of criminal liability. A person may only be punished if they commit an act prohibited by law. Article 1 paragraph (1) of Law Number 1 of 2023 concerning the Criminal Code reflects the principle of legality formulated in the maxim *nullum delictum, nulla poena sine praevia lege poenali*, which means that no act can be punished unless it is based on a criminal law that existed before the act was committed.[24] Article 12 of the Criminal Code also stipulates that a criminal act is an act that is threatened with criminal sanctions by law.[25] In Decision Number 26/Pid.Sus-Anak/2020/PN.SON, Viktorinus Mario Sua was placed as the perpetrator of aggravated theft. This act qualifies as a criminal offense because it is regulated and punishable under Article 363 paragraph (2) of the Criminal Code and under Article 477 paragraph (2) of Law Number 1 of 2023 concerning the Criminal Code.

[24] Patar Marojohan Sinurat, Janpatar Simamora, "*Peran Jaksa dalam Penerapan Restorative Justice : Tinjauan Asas Legalitas dan Keadilan Substansif dalam Peraturan Kejaksaan 15/2020",* Al-Zayn: Jurnal Ilmu Sosial & Hukum. Vol. 3, No. 5, 2025, p. 7609.
[25] Moeljalento, 2008, *Asas-Asas Hukum Pidana, Edisi revisi*, Jakarta, Renika Cipta, p. 25.

c. Existence of Fault

Fault, in a broad sense, is closely related to criminal liability, indicating that the perpetrator can be blamed for their actions. A person is considered guilty if their act can be legally attributed to them.[26] In criminal law, fault may take the form of intent or negligence as regulated in Articles 36 and 37 of Law Number 1 of 2023 concerning the Criminal Code. Article 36 states that criminal liability applies only to intentional or negligent acts, and negligence is punishable only if explicitly stipulated by law. Article 37 provides that in certain circumstances, a person may be punished without fault or may be held responsible for the actions of another person.

In this case involving the child, the element of intent is evident because the child, together with his friend Yesaya Lakafin, consciously and deliberately went to the victim's house at 05:00 WIT. The child knew that the motorcycle parked on the terrace of the victim's house did not belong to him but still participated in taking the property. This demonstrates a conscious intention to unlawfully possess another person's property. The act was also planned, as the child waited outside the gate while monitoring the situation, allowed his friend to break the gate lock, helped push the motorcycle out of the yard, and together they took and later sold the stolen motorcycle. The motorcycle was sold for Rp1,500,000, and the proceeds were shared, indicating that from the beginning the child intended to obtain profit, which is a typical characteristic of intentional theft. Regarding negligence, no facts indicate that the child committed the act due to negligence or without awareness of its consequences.

d. Absence of Excusing Reasons

The absence of excusing reasons indicates that the defendant's fault cannot be eliminated. During the trial, the panel of judges did not find any justifying or excusing reasons that could eliminate criminal responsibility, as regulated in Articles 40–44 of Law Number 1 of 2023 concerning the Criminal Code. Therefore, the defendant must still be held responsible for his actions under applicable law.[27]

In Case Number 26/Pid.Sus-Anak/2020/PN.Son, the facts of the trial show that no excusing reasons were attached to the child perpetrator. These elements can be explained as follows:

1. The child had the capacity for responsibility, which means Article 40 of the 2023 Criminal Code does not apply, because the child was physically and mentally

[26] Chairul Huda, *Dari Tiada Pidana Tanpa Kesalahan Menuju Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan*, (Jakarta: Kencana, 2011), p. 45.
[27] Teguh Prasetyo, *Hukum Pidana*, (Jakarta: Rajawali Pers, 2013), p. 156.

healthy, able to think normally, understood every question during the trial, and knew that his actions were wrong and unlawful.

2. The act was not committed under coercion, meaning Article 42 of the 2023 Criminal Code does not apply. The child committed the theft with his friend of his own free will, without threats, pressure, or coercion from any party.
3. There was no element of self-defense, meaning Article 43 of the 2023 Criminal Code does not apply, because the act involved taking the victim's motorcycle and there was no attack or threat from the victim toward the child.
4. There was no execution of an official order, meaning Article 44 of the 2023 Criminal Code does not apply, since the child was not a state official and the act was not carried out under an official order or legal obligation but purely for personal interest.

From the explanation above, the child in this case cannot be granted any excusing reasons.

Based on the entire discussion presented, the author concludes that the application of criminal liability to a child as a perpetrator of aggravated theft committed jointly in Decision Number 26/Pid.Sus-Anak/2020/PN.SON is consistent with the concept and theory of criminal liability. The elements of criminal liability—namely the existence of a criminal act, the capacity for responsibility, the existence of fault, and the absence of excusing reasons—have been legally fulfilled, thereby allowing the child to be held criminally responsible. Although the defendant is still a minor, based on Article 81 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, he may still be held accountable with the application of lighter sanctions oriented toward rehabilitation. Therefore, the judge's decision in this case can be considered to have taken into account juridical, psychological, and child protection aspects, particularly the principle of the best interests of the child, thereby aligning with the principles of justice and the objectives of punishment within the juvenile justice system.

2. The Judge's Legal Considerations Regarding a Child Committing Aggravated Theft Jointly (Case Study of Decision Number: 26/Pid.Sus-Anak/2020/PN.Son)

Efforts to uncover the truth in criminal cases are carried out through the application of criminal procedural law in an honest, careful, and accurate manner. This process aims to determine the party responsible for a legal violation and to ensure, through a court decision, whether a criminal act has actually occurred and whether the defendant can be

held responsible.[28] Therefore, judges are obliged to seek material truth, namely the actual truth in the case. Law enforcement is an effort to realize justice, legal certainty, and benefits for society. This process aims to ensure that legal norms are effectively implemented in social and state life. In judicial practice, judges are also required to explore the legal values and sense of justice that live within society as the basis for consideration and guidance in legal reasoning.[29]

Society often equates the term judge's decision with court decision. However, in law there is a specific concept known as **a** court judgment. As regulated in Article 1 point 22 of Law Number 8 of 1981 concerning the Criminal Procedure Code, a court decision is a statement delivered by a judge in an open court session which may take the form of a conviction, acquittal, or release from all legal charges in accordance with statutory provisions. A decision is considered valid if it not only guarantees legal certainty and utility but also reflects justice and humanitarian values. In criminal law, a high-quality decision must be based on trial facts, statutory provisions, and the judge's conviction, without influence or pressure from any party. Such a decision should realize justice and truth while providing protection and order for society and remaining relevant to the development of the times. A defendant can only be declared guilty after the Public Prosecutor submits an indictment in accordance with Article 82 paragraph (1) letter b of the laws of the Republic of Indonesia.[30]

The Panel of Judges assessed whether, based on the existing legal facts, the defendant could be deemed to have committed the criminal act as stated in the single indictment submitted by the Public Prosecutor. By considering the available evidence and facts, the Panel of Judges evaluated the indictment under Article 363 paragraph (2) of the Indonesian Criminal Code, which includes the following elements:

a. The perpetrator ("whoever");
b. Taking part or all of another person's property;
c. With the intention of unlawfully possessing it;
d. Committed at night in a house or enclosed yard without the owner's knowledge;
e. Committed jointly by two persons;

[28] Lilik Mulyadi. *Kompilasi Hukum Pidana Dalam Perspektif Teoritis Dan Prakter Pradilan*. (Mandar Maju: Bandung), (2007), p 45.
[29] Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan,* (Bandung: PT Citra Aditya Bakti), (2001), p. 94-97.
[30] Sutatiek, Sri. *Menyoal Akuntabilitas Moral Hakim Pidana dalam Memeriksa, Mengadili, dan Memutus Perkara,* (Yogyakarta: Aswaja Pressindo), (2013), p. 30.-31.

f. To access the place or property, it is carried out by damaging, cutting, climbing, or using a false key, order, or official uniform.[31]

Case Chronology

Based on the testimony of witnesses and the defendant, the incident began on Tuesday, May 19, 2020, at around 05:00 WIT. The child, Viktorinus Mario Sua, was riding with Yesana Lakafin (a defendant in another case) on a black Honda Beat motorcycle passing in front of the victim's house, Telly Timbuleng, on Jalan S. Kamundan Km. 12, Sorong City. The defendant saw a Honda Beat Street motorcycle belonging to the victim parked on the terrace of the house. Yesana Lakafin then stopped, got off the motorcycle, approached the gate, and broke the padlock by prying it open with a screwdriver, causing the lock to be damaged.

After that, the witness Yesaya Lakafin opened the gate and entered the yard of the victim's house, while Viktorinus Mario Sua waited outside the yard while monitoring the surrounding situation. Feeling that the situation was safe, Yesaya Lakafin pushed one unit of a black Honda Beat Street motorcycle with license plate PB 4635 SR out of the victim's yard using both hands without the victim's permission or knowledge. After the motorcycle was outside the house, Viktorinus Mario Sua pushed the motorcycle toward Arteri Road in Sorong City. As a result of the actions of Viktorinus Mario Sua and Yesaya Lakafin, the victim, Telly Timbuleng, suffered a loss estimated at approximately Rp 20,300,000 (twenty million three hundred thousand rupiah).[32]

Indictment

The indictment must be prepared carefully and clearly because it forms the basis of the trial. The description must include the act, time, place, and elements of the criminal offense so that the judge can assess the defendant's guilt based on the evidence presented. In the decision concerning the child Viktorinus Mario Sua, the Public Prosecutor charged the defendant with committing a criminal offense in violation of Article 363 paragraph (2) of the Indonesian Criminal Code through a single indictment**.**

In this case, the judge stated that all elements of Article 363 paragraph (2) had been fulfilled and proven legally and convincingly. Therefore, the child was declared guilty and sentenced based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System**.** In this case, the Public Prosecutor used a **single indictment**, meaning that only one criminal act was charged. In this case, the act committed by Viktorinus Mario Sua was aggravated theft, which clearly fulfilled all elements of Article 363 paragraph (2) of

[31] Kitab Undang-Undang Hukum Pidana, Pasal 363 ayat (2)
[32] Pengadilan Negeri Sorong, *Putusan Nomor 26/Pid.Sus-Anak/2020/PN.Son*, Tahun 2020.

the Criminal Code. There was no possibility of another legal qualification or separate act that would require alternative, subsidiary, or cumulative charges. The use of a single indictment also aligns with the principles of effectiveness and legal certainty, particularly in handling juvenile cases.

Public Prosecutor's Demand

The indictment or prosecution document is a document prepared by the prosecutor after the trial is completed, containing facts, legal analysis, evaluation of evidence, and requests for a decision and punishment from the judge.[33] After hearing witness testimonies, the defendant's statement, and examining the evidence in court, the Public Prosecutor requested that the judge issue the following decision:

1. Declare that the child Viktorinus Mario Sua has been legally and convincingly proven guilty of committing the crime of aggravated theft in violation of Article 363 paragraph (2) of the Criminal Code in conjunction with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, as stated in the indictment of the Public Prosecutor;
2. Sentence the child Viktorinus Mario Sua to imprisonment for two (2) years;
3. Declare the evidence in the form of one black Honda Beat Street motorcycle with license plate PB 4635 SR, frame number MH1JFZ219KK692192, and engine number JFZ2E-1690634 to be returned to the rightful owner, Telly Timbuleng;
4. Determine that court costs amounting to Rp 5,000 (five thousand rupiah) shall be borne by the state;[34]

As a public prosecutor, the prosecutor does not merely seek punishment for the defendant but also ensures the realization of justice for all parties in the criminal case. The demands submitted by the prosecutor correspond to the child's actions which fulfill the elements of Article 363 paragraph (2) regarding aggravated theft. The aggravating elements include that the crime was committed at night, jointly, and by damaging property. Furthermore, Viktorinus Mario Sua was a recidivist who had previously been sentenced for a similar offense. His actions also caused significant material loss to the victim. However, the demand still referred to the provisions of the Juvenile Criminal Justice System, particularly Articles 2 and 3 of the SPPA Law, which emphasize the best interests of the child**,** restorative justice**,** child protection**,** guidance rather than retaliation, and imprisonment as a last resort (ultimum remedium).

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[33] Selvia Natalia Berutu, Janpatar Simamora, "*Peran Penting Jaksa Penuntut Umum Menangani Kasus Tindak Pidana Korupsi Dalam Sistem Peradilan Pidana(Studi di Kejaksaan Negeri Binjai)",* Jurnal Media Informatika (JUMIN), Vol 6 No.2, Edisi Januari-April 2025. p.1098.

[34] Pengadilan Negeri Sorong, *Putusan Nomor 26/Pid.Sus-Anak/2020/PN.Son*, Tahun 2020. Bagian Tuntutan

Judge's Considerations

The judge's considerations in Decision Number 26/Pid.Sus-Anak/2020/PN.Son include the following:

a. The child was charged by the Public Prosecutor under Article 363 paragraph (2) of the Criminal Code in conjunction with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.
b. The child, accompanied by the Correctional Counselor (Bapas), understood the indictment and did not raise any objection.
c. Witness testimonies and the child's statements during the trial explained the chronology of the incident.
d. Evidence presented included one unit of a black Honda Beat Street motorcycle with license plate PB 4635 SR.
e. Based on witness testimonies, the child's statement, and evidence, the court found that the child and a witness took the victim's motorcycle from the yard without permission and later sold it for Rp 1,500,000. The child realized that his actions were unlawful.
f. Considering that the indictment of the Public Prosecutor is a single charge as regulated under Article 363 paragraph (2) of the Indonesian Criminal Code (KUHP), the Judge will therefore examine its elements**.** The child, as the perpetrator of the aggravated theft committed jointly, based on Decision Number 26/Pid.Sus-Anak/2025/PN.SON, must be held responsible for his actions because they have fulfilled the elements of Article 363 paragraph (2) of the Criminal Code, the elements of which are as follows: [35]
    1) The element of **"**whoever" (barang siapa) in criminal law refers to a legal subject who holds rights and obligations and is capable of being held accountable for his or her actions before the law and the court.[36]
    2) Viktorianus Mario Sua, as a child, is one of the legal subjects who is capable of being held responsible for all of his actions before the law.
    3) The element of taking an object wholly or partly belonging to another person. In this case, the defendant, feeling safe, and witness Yesaya Lakafin pushed one unit of a black Honda Beat Street motorcycle with license plate number PB 4635 SR using both of his hands out of the yard of the victim's house, Telly Timbuleng, without the permission and knowledge of the victim. After the

[35] Pengadilan Negeri Sorong, *Putusan Nomor 26/Pid.Sus-Anak/2020/PN.Son*, Tahun 2020. Bagian Pertimbahangan Hakim
[36] Adami Chazawi, "*Kejahatan Terhadap Benda*", Bayumedia Publishing, Malang, 2003, p. 15.

motorcycle was outside the house, Viktorinus Mario Sua then pushed the victim's motorcycle toward Arteri Road in Sorong City.

4) The element of intending to unlawfully possess the object, meaning the intention to control the object in contradiction to the legal rights of another person. In this case, the defendant acted without the permission or knowledge of the victim, Telly Timbuleng, and after the motorcycle was taken out of the house, Viktorinus Mario Sua pushed the victim's motorcycle away.[37]
5) The element of committing the act at night in a house or in an enclosed yard where a house stands, by a person whose presence is unknown or not desired by the rightful owner. Nighttime refers to the period between sunset and sunrise, and a house refers to any building intended and constructed as a place of residence. In this case, the defendant committed the act on Tuesday, May 19, 2020, at approximately 05:00 WIT, at the terrace of the victim Telly Timbuleng's house on S. Kumandan Road Km 12, Sorong City.
6) The element of being committed by two or more persons acting in concert. The responsibility of perpetrators of theft is based on Article 55 paragraph (1) of the Criminal Code, with aggravated punishment due to the act being carried out jointly and with a strong intention to commit theft. During the trial, it was revealed that Yesaya Lakafin stopped in front of the victim Telly Timbuleng's house, broke the padlock on the gate using a screwdriver, and entered the yard of the house, while Viktorinus Mario Sua waited outside the gate while monitoring the situation. After feeling safe, Yesaya Lakafin pushed the victim's Honda Beat Street motorcycle out of the yard without permission, and together with Viktorinus Mario Sua brought the motorcycle to Arteri Road in Sorong City.[38]
7) The element of reaching the object by damaging or climbing, meaning actions taken before the theft such as damaging doors or windows to enter a house, for example by prying, breaking, or lifting glass. A person who commits theft together with others is responsible for aggravating circumstances if the theft is carried out by breaking in, even if in reality the breaking was carried out by another person. Based on the facts revealed in court, witness Yesaya Lakafin, who was riding a motorcycle, stopped in front of the victim's house, got off the

[37] Pengadilan Negeri Sorong, *Putusan Nomor 26/Pid.Sus-Anak/2020/PN.Son*, Tahun 2020. Bagian Pertimbangan Hakim
[38] Pengadilan Negeri Sorong, *Putusan Nomor 26/Pid.Sus-Anak/2020/PN.Son*, Tahun 2020. Bagian Pertimbangan Hakim

motorcycle, approached the house gate, and damaged **one** padlock by prying open the keyhole using **a screwdriver**, causing the gate lock to break.

a. Considering that based on the facts revealed during the trial, all elements contained in the indictment have been fulfilled.
b. The Judge is of the opinion that the child's actions have been legally and convincingly proven to violate Article 363 paragraph (2) of the Criminal Code. Therefore, the child is declared guilty and must be held accountable for his actions in accordance with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.
c. Considering that the period of the child's detention shall be fully deducted from the sentence imposed, in accordance with Article 22 paragraph (4) of the Criminal Procedure Code (KUHAP). In addition, because the child has been proven guilty, the child is also required to pay court costs.
d. Considering that because the child is subject to punishment, the Judge will take into account both aggravating and mitigating circumstances:

Aggravating circumstances:

1. The child had previously been convicted in a theft case and sentenced to 7 months of imprisonment.
2. The child's actions caused losses to the victim Eni Herlina Kuenan amounting to Rp27,500,000 (twenty-seven million five hundred thousand rupiah).

Mitigating circumstances:

1. The child behaved politely during the trial and honestly admitted his actions.
2. The child is still young and is expected to be able to improve his behavior in the future.[39]

The judge's considerations in Decision Number 26/Pid.Sus-Anak/2020/PN.Son are consistent with the principles of criminal procedural law, in which the judge considered the case using both juridical and non-juridical approaches. From a juridical perspective, the judge based the examination on the single indictment under Article 363 paragraph (2) of the Criminal Code in conjunction with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, in accordance with the principle of legality and Article 143 of the Criminal Procedure Code (KUHAP). During the trial, the child understood the indictment, did not raise objections, and was accompanied by a Community Advisor

[39] Pengadilan Negeri Sorong, *Putusan Nomor 26/Pid.Sus-Anak/2020/PN.Son*, Tahun 2020. Bagian Pertimbangan Hakim

(Bapas) as stipulated in Article 23 of the Juvenile Criminal Justice System Law, so that his rights were properly fulfilled.

The judge's decision was based on legitimate evidence according to Article 184 of the Criminal Procedure Code, namely witness testimony, the child's testimony, and physical evidence that corresponded with each other, thereby fulfilling the standard of proof under Article 183 of the Criminal Procedure Code. The judge assessed that all elements of Article 363 paragraph (2) of the Criminal Code had been fulfilled and that the child was capable of being held responsible without any justifying or excusing reasons. Based on the facts revealed in court, the child was proven to have committed aggravated theft jointly, at night, in an enclosed yard, and by damaging property, thus the act was legally and convincingly proven.

In addition to juridical considerations, the judge also paid attention to non-juridical aspects in the case involving the child. The aggravating circumstances included the status of Victorinus Mario Sua as a recidivist for the same criminal offense and the financial loss suffered by the victim. The mitigating circumstances included the child's cooperative attitude, his honest confession, and his young age, which indicates that he can still be rehabilitated. These considerations are in line with Article 197 paragraph (1) letter f of the Criminal Procedure Code and the principles of the Juvenile Criminal Justice System Law, which prioritize the rehabilitation and development of children.

Therefore, although the Public Prosecutor demanded a sentence of two years' imprisonment, the judge imposed a lighter sentence of one year and six months, considering legal certainty, justice, and the objective of rehabilitation. Thus, the author concludes that the judge's considerations in this case have fulfilled the standards of proper legal reasoning, both juridically and non-juridically, and reflect the application of the best interests of the child principle in accordance with the provisions of the Juvenile Criminal Justice System.

Decision (Operative Part of the Judgment)

Considering the provisions of Article 363 paragraph (2) of the Indonesian Criminal Code (KUHP), Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System, as well as other laws and regulations related to this case, the Court ADJUDICATES:

1. Declares that the child Viktorinus Mario Sua has been legally and convincingly proven guilty of committing the criminal offense of theft, as regulated and punishable under Article 363 paragraph (2) of the Criminal Code in conjunction with Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System.

2. Imposes a criminal sentence upon the child Viktorinus Mario Sua, therefore sentencing him to 1 (one) year and 6 (six) months of imprisonment.
3. Determines that the period of detention already served by the child shall be fully deducted from the sentence imposed.
4. Orders that the child remain in detention.
5. Orders that the following evidence: **(**one) unit of a black Honda Beat Street motorcycle with license plate number PB 4635 SR, chassis number MH1JFZ219KK692192 and engine number JFZ2E-1690634, be handled in accordance with the provisions of the judgment.
6. Orders that the court costs be borne by the State in the amount of Rp 5,000 (five thousand rupiah).[40]

The operative part of the judgment in Case Number 26/Pid.Sus-Anak/2020/PN.Son is consistent with the theory of judicial consideration in rendering criminal decisions. The judge declared that the child was legally and convincingly proven guilty of committing aggravated theft based on Article 363 paragraph (2) of the Criminal Code in conjunction with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, guided by lawful evidence as stipulated in Article 183 of the Criminal Procedure Code (KUHAP). The imposition of a 1 year and 6 months imprisonment sentence was determined after considering juridical, non-juridical, and sociological aspects, including the status of the child as the offender, the aggravating and mitigating circumstances, and the principle of the best interests of the child. The judge also stipulated the deduction of the detention period, the return of evidence to the victim, and the imposition of court costs upon the State Thus, the operative decision reflects a balance between legal certainty, justice, and the rehabilitative objective toward the child as the perpetrator of a criminal offense.[41]

Analysis of the Decision

The analysis that the author can present regarding Decision Number 26/Pid.Sus-Anak/2020/PN.SON, from the indictment to the operative part of the judgment issued by the judge, is as follows.

From a juridical perspective, the judge examined and adjudicated this case in accordance with the provisions of criminal procedural law. The indictment submitted by the Public Prosecutor was a single charge based on Article 363 paragraph (2) of the Indonesian Criminal Code (KUHP) in conjunction with Law Number 11 of 2012

[40] Pengadilan Negeri Sorong, *Putusan Nomor 26/Pid.Sus-Anak/2020/PN.Son*, Tahun 2020. Amar Putusan
[41] M. Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP: Pemeriksaan Sidang Pengadilan, Banding, Kasasi, dan Peninjauan Kembali,* (Jakarta: Sinar Grafika, 2016), p. 356–360.

concerning the Juvenile Criminal Justice System.[42] The use of a single charge was appropriate because the act committed by the child constituted only one criminal offense, namely aggravated theft. This is consistent with Article 143 paragraph (2) of the Criminal Procedure Code (KUHAP), which requires that an indictment be formulated carefully, clearly, and completely.[43]

During the trial, the judge based the decision on lawful evidence as stipulated in Article 184 of the Criminal Procedure Code (KUHAP), namely witness testimony, the statement of the child (the defendant), and physical evidence in the form of the victim's motorcycle.[44] All of these pieces of evidence were mutually consistent and therefore fulfilled the standard of proof according to Article 183 KUHAP, which requires that a judge may only impose a criminal sanction when he or she obtains conviction based on at least two valid pieces of evidence.[45]

The judge also considered all the elements of Article 363 paragraph (2) of the Criminal Code, namely:

1. The element of "whoever" as a legal subject capable of bearing responsibility;
2. The element of "taking property belonging to another person";
3. The element of "with the intention of unlawfully possessing it";
4. The aggravating elements, namely that the act was committed at night, jointly, and by means of damaging property.[46]

Based on the facts revealed during the trial, all of these elements were proven legally and convincingly. Therefore, the imposition of punishment upon the child is consistent with the principle of legality as stipulated in Article 1 paragraph (1) of the Criminal Code, which states that no act may be punished unless based on provisions of law.[47]

Although juridically all elements of the criminal offense have been proven and the principle of legality has been fulfilled, it is necessary to further analyze whether the fulfillment of these elements automatically justifies the type and length of punishment imposed. In the context of the juvenile criminal justice system, proving the elements of a crime should not stop at legitimizing punishment but must continue with an evaluation of the most effective form of state response for the child's rehabilitation. Thus, the central issue is no longer merely the establishment of guilt, but rather the proportionality of the sanction within the framework of the best interests of the child.

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[42] Pengadilan Negeri Sorong, *Putusan Nomor 26/Pid.Sus-Anak/2020/PN.Son*, Tahun 2020. Dakwaan
[43] Kitab Undang-Undang Hukum Acara Pidana (KUHAP), Pasal 143 ayat (2).
[44] Kitab Undang-Undang Hukum Acara Pidana (KUHAP), Pasal 184
[45] Kitab Undang-Undang Hukum Acara Pidana (KUHAP), Pasal 183
[46] Kitab Undang-Undang Hukum Pidana (KUHP), Pasal 363 ayat (2).
[47] Kitab Undang-Undang Hukum Pidana (KUHP), Pasal 1 ayat (1)

In addition to juridical considerations, the judge also took into account non-juridical aspects as required in cases involving children such as Victorinus Mario Sua. Consideration of aggravating and mitigating circumstances was carried out in accordance with Article 197 paragraph (1) letter f of KUHAP, which requires judges to include considerations regarding the circumstances of the defendant in their decisions.[48]

The aggravating circumstances include:

1. The child is a recidivist, having previously been convicted in a theft case;
2. The child's actions caused significant material loss to the victim.

Meanwhile, the mitigating circumstance**s** include:

1. The child behaved politely during the trial;
2. The child honestly admitted his actions;
3. The child is still young and is expected to be capable of rehabilitation.[49]

These considerations are consistent with the principles contained in Article 2 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, namely the principles of protection, the best interests of the child, rehabilitation, and the principle that imprisonment should be a last resort (ultimum remedium). Normatively, the judge indeed referred to the principles of ultimum remedium and the best interests of the child. However, the decision does not appear to provide an in-depth discussion regarding the exploration of restorative justice mechanisms, such as the possibility of further diversion or forms of restitution for the victim. This raises an academic question regarding the extent to which the restorative justice approach was truly internalized in the judge's reasoning, or whether it merely functioned as a normative reference without substantive elaboration.

Nevertheless, the placement of recidivism status as an aggravating factor requires more critical analysis. From the perspective of juvenile criminology, recidivism does not merely indicate a higher level of culpability but may also reflect the ineffectiveness of previous rehabilitation efforts. Therefore, re-imposing imprisonment raises questions regarding its effectiveness in preventing the repetition of criminal acts. In this context, the judge should ideally have elaborated more deeply on whether alternative rehabilitative measures outside correctional institutions had been comprehensively considered before imposing a custodial sentence.

In this case, although the Public Prosecutor demanded a sentence of 2 (two) years imprisonment for the child Victorinus Mario Sua, the judge imposed a lighter sentence of

[48] Kitab Undang-Undang Hukuim Acara Pidana (KUHAP), Pasal 197 Ayat (1) huruf (f)
[49] Pengadilan Negeri Sorong, *Putusan Nomor 26/Pid.Sus-Anak/2020/PN.Son*, Tahun 2020

1 (one) year and 6 (six) months. The imposition of a lighter sentence constitutes a form of judicial discretion that is legally justified and is consistent with the principle that punishment for children must prioritize the best interests of the child, as stipulated in Article 81 paragraph (5) of the Juvenile Criminal Justice System Law, which requires imprisonment for children to be used as a last resort and for the shortest possible period.[50] Furthermore, the judge's order that the period of detention be fully deducted from the imposed sentence is consistent with Article 22 paragraph (4) of KUHAP. The return of the evidence to the victim is also in accordance with Article 46 of KUHAP concerning the management of evidence in criminal cases.[51]

From the perspective of proportionality, a sentence of 1 year and 6 months is indeed lighter than the prosecutor's demand but still constitutes a significant deprivation of liberty for a child. A critical question that may be raised is whether such a duration truly reflects the principle of "the shortest possible time" as intended in the Juvenile Criminal Justice System Law. This evaluation is important to ensure that the application of imprisonment for children does not shift from its rehabilitative function toward a predominantly repressive one, particularly in cases involving aggravating circumstances and recidivism.

In rendering a decision, judges are required to master the technical aspects of judicial proceedings at every stage of a criminal case in a professional and independent manner. Judicial independence is a fundamental element in producing objective and fair decisions based on the values of Pancasila. Therefore, judicial decisions must be free from intervention by any party and can only be accounted for before God Almighty and the judge's conscience. The process of criminal decision-making by judges plays a crucial role and requires careful consideration of the facts of the case. Such considerations must reflect substantive and factual justice and truth, as well as the ethical and moral integrity of the judge. In imposing punishment, judges must balance normative and sociological approaches so that the resulting decision truly realizes a sense of justice.

CONCLUSION

Based on the analysis of Decision Number 26/Pid.Sus-Anak/2020/PN.Son, this study finds that the construction of juvenile criminal liability in cases of aggravated theft committed collectively remains grounded in the general framework of criminal

[50] Undang-Undang Republik Indonesia Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak, Lembaran Negara Republik Indonesia Tahun 2012 Nomor 153, Tambahan Lembaran Negara Republik Indonesia Nomor 5332. Pasal 81 Ayat (5).
[51] Kitab Undang-Undang Hukuim Acara Pidana (KUHAP), Pasal 22 Ayat (4) & Pasal 46.

responsibility as regulated in Article 363 paragraph (2) of the Indonesian Criminal Code (KUHP), with procedural adjustments and sentencing objectives based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Thus, normatively there is no difference in the standard of proof between adult and juvenile offenders in terms of fulfilling the elements of the offense; rather, the distinction lies in the orientation of sentencing, which must prioritize guidance and rehabilitation.

An important finding of this study indicates the existence of a conceptual tension between the principle of *ultimum remedium* in the juvenile criminal justice system and the practice of imposing imprisonment on children who are recidivists in aggravated criminal offenses. In this case, the judge still imposed a prison sentence, albeit lower than the prosecutor's demand, with the argument of protecting society and addressing the repetition of criminal acts. This suggests that in certain cases, particularly where aggravating elements and recidivism are present, the rehabilitative orientation may shift toward a more repressive–proportional approach.

Conceptually, this decision reflects that the principle of the best interests of the child is not interpreted absolutely as the avoidance of imprisonment, but rather as a balance between child protection, legal certainty, and the interests of the victim. Therefore, in practice, the juvenile criminal justice system operates within a space of compromise between normative ideals and the sociological realities of juvenile crime. This finding contributes academically by demonstrating that the consistency in applying child protection principles is strongly influenced by the characteristics of the case, especially the seriousness of the crime and the offender's history, thereby opening space for evaluating the effectiveness of rehabilitative approaches in preventing recidivism among juveniles.

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