

ABSTRAK

Anak yang melakukan tindak pidana (anak yang berhadapan dengan hukum) tetap mendapatkan perlindungan hukum dari negara. Perlakuan terhadap pelaku tindak pidana anak dengan pelaku dewasa haruslah dibedakan. Perlakuan anak di mata hukum harus mempertimbangkan beberapa aspek, salah satunya adalah aspek psikologis dan aspek masa depan sang anak. Proses penjatuhan pidana terhadap anak harus selaras dengan prinsip dasar hak-hak anak, terutama prinsip kepentingan terbaik bagi anak, hal tersebut diatur dalam Prinsip-prinsip dasar Konvensi Hak-Hak Anak Pasal 2 huruf b Undang-Undang Nomor 23 tahun 2002 tentang Perlindungan anak. Pemberian hukuman kepada anak harus didasarkan pada asas perlindungan dan keadilan agar sesuai dengan ketentuan Pasal 2 UU SPPA. Penelitian ini dilakukan dengan metode yuridis normatif dengan data yang diperoleh melalui data primer dan data sekunder. Pengumpulan data dilakukan melalui studi pustaka dan dianalisis secara kualitatif. Penelitian ini meneliti mengenai kebijakan perlindungan hukum terhadap anak sebagai pelaku tindak pidana kekerasan serta implementasi kebijakan perlindungan anak sebagai pelaku kekerasan dalam putusan Nomor: 14/pid.sus-Anak/2019/PN.SMG. dari hasil penelitian, diperoleh kesimpulan kebijakan perlindungan hukum terhadap anak pelaku tindak pidana kekerasan telah diatur dalam berbagai instrumen hukum internasional dan peraturan perundang-undangan di Indonesia, seperti Standar Minimum PBB untuk Penyelenggaraan Peradilan Anak (The Beijing Rule), Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak (dan perubahannya), serta Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak. Perlindungan ini mencakup pemenuhan hak-hak dasar anak, kebijakan penjatuhan pidana, jenis pidana kepada anak, pelaksanaan diversifikasi dalam proses peradilan anak, serta peran Balai Pemasyarakatan dalam menyusun laporan penelitian kemasyarakatan. Selanjutnya, implementasi kebijakan ini dalam putusan Nomor: 14/Pid.Sus-Anak/2019/PN.SMG belum maksimal, terutama terkait jenis pidana yang dijatuhkan, pelaksanaan diversifikasi, dan laporan penelitian kemasyarakatan yang tidak dijadikan dasar pertimbangan hakim. Sistem peradilan pidana anak harus dilaksanakan secara teratur dan kolaboratif untuk mencapai sistem yang adil dan memberikan perlindungan maksimal bagi anak pelaku tindak pidana.

Kata Kunci: Anak, Diversi, Peradilan anak, Perlindungan

ABSTRACT

Children who commit criminal acts (children in conflict with the law) still receive legal protection from the state. The treatment of juvenile offenders must be different from that of adult offenders. The treatment of children in the eyes of the law must consider several aspects, one of which is the psychological and future aspects of the child. The sentencing process for children must align with the fundamental principles of children's rights, especially the principle of the best interests of the child, as stipulated in the basic principles of the Convention on the Rights of the Child Article 2 letter b of Law No. 23 of 2002 on Child Protection. Punishment for children must be based on the principles of protection and justice to comply with the provisions of Article 2 of the Juvenile Criminal Justice System Law (UU SPPA). This research was conducted using a normative juridical method with data obtained through primary and secondary sources. Data collection was carried out through literature studies and analyzed qualitatively. This research examines the legal protection policy for children who commit violent crimes and the implementation of child protection policies for violent offenders in Decision No. 14/pid.sus-Anak/2019/PN.SMG. The research concluded that the legal protection policy for children who commit violent crimes is regulated in various international legal instruments and Indonesian legislation, such as the UN Minimum Standards for the Administration of Juvenile Justice (The Beijing Rules), Law No. 23 of 2002 on Child Protection (and its amendments), and Law No. 11 of 2012 on the Juvenile Criminal Justice System. This protection includes fulfilling the basic rights of children, policies on sentencing, types of sentences for children, the implementation of diversion in the juvenile justice process, and the role of the Correctional Center in preparing social research reports. Furthermore, the implementation of this policy in Decision No. 14/pid.sus-Anak/2019/PN.SMG has not been maximized, particularly concerning the types of sentences imposed, the implementation of diversion, and the social research reports that were not used as a basis for the judge's consideration. The juvenile criminal justice system must be carried out in an orderly and collaborative manner to achieve a fair system that provides maximum protection for children who commit criminal acts..

Keywords: Child, Diversion, Juvenile Justice, Protection