



Application of Sanctions for Return Action to Parents to Children Criminals

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Abstract. *One form of sanction regulated in the law is the act of returning to parents. This action aims to return children to their family environment so that they can be fostered and directed properly. In Article 59 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it is stated that the government and State institutions have an obligation and responsibility to protect children by providing special protection to children, especially to children who are dealing with the law, both children in conflict with the law and children as victims of criminal acts. This research uses the Normative Juridical research method. This method is carried out by conducting an assessment and analyzing laws and regulations. The results of the study were that the effectiveness of the sanctions for return actions was also influenced by the socio-economic conditions of the family. Many families experience economic difficulties so that they are unable to provide good education and supervision to children. In conclusion, the application of sanctions for returning actions to parents against children who commit criminal acts has a strong legal basis, but still faces various challenges in practice. The effectiveness of these sanctions is greatly influenced by the role of parents, family socioeconomic conditions, and existing social stigma. Therefore, a comprehensive approach is needed to improve the success of child rehabilitation.*

Keywords: *Action Sanctions; Application; Child of Crime Offender; Criminal; Return to the Parents*

1. BACKGROUND

Children are the next generation of the nation and development, namely the generation that is prepared as the subject of implementing sustainable development and the holder of control of the future of a country, Indonesia is no exception. Child protection in Indonesia means protecting the potential of human resources and building the whole Indonesian human being, towards a just and prosperous society, the spiritual material of Pancasila and the 1945 Constitution (Mulyati and Dahwir 2022)

Criminal acts committed by children are a complex issue and require serious attention from various parties, including the government, society, and educational institutions. In the legal context, children of criminal offenders are often viewed differently than adult offenders (Sutatnto and Rahaditya 2024). This is due to psychological considerations and mental development that are still in process. In Indonesia, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) provides a clear legal framework regarding the treatment of children in conflict with the law (Indonesia 2012).

One form of sanction regulated in the law is the act of returning to parents. This action aims to return children to their family environment so that they can be fostered and directed properly. However, the implementation of these sanctions does not always go smoothly (Amanda 2024). Many factors affect the effectiveness of the return action, such as the socioeconomic conditions of the family, parental parenting, and support from the surrounding community.

Data from the Central Statistics Agency (BPS) shows that the number of crimes involving children has continued to increase in recent years. In 2021, there were more than 1,500 cases of crimes involving children, with offenses varying from theft to violence. This figure shows that there is an urgent need to evaluate and optimize the implementation of sanctions for return actions to parents.

In Article 59 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it is stated that the government and State institutions have an obligation and responsibility to protect children by providing special protection to children, especially to children who are dealing with the law, both children in conflict with the law and children as victims of criminal acts (SEPTI NURAINI, WENDRA YUNALDI 2024). The provision of child protection that conflicts with the law must be guided by the principles contained in Article 2 of Law Number 11 of 2012 concerning the Child Criminal Justice System, including: 1) The principle of protection; 2) The principle of justice; 3) The principle of non-discrimination; 4) The basis of the best interests of the child; 5) The principle of respect for children's opinions; 6) The principles of survival and growth and development of children; 7) The basics of child development and guidance; 8) Proportional principles; 9) The principle of deprivation of independence and criminalization as a last resort; and 10) The principle of avoidance (Indonesia 2012).

According to the Child Protection Law and the Child Criminal Justice System, judges in imposing criminal sanctions against children as perpetrators of criminal acts are obliged to pay attention to the category, age, and type of criminal acts committed by children as a matter for the judge's consideration. Especially criminal actions or sanctions in the form of restitution to parents. The special conditions for being sentenced to action in the form of return to parents are that the age of the child is not more than 14 years old, and the threat of imprisonment is a maximum of 7 years (Anik Iftitah et al. 2023). This is also one of the requirements for diversion efforts to be carried out to the children of criminal offenders as stipulated in Article 7 (seven) and Article 69 (sixty-nine) paragraph (2) of Law Number 11 of 2012.

In the facts in the field, the author found several cases of children as perpetrators of criminal acts with a criminal threat of imprisonment of more than 7 years and not 14 years old, where the perpetrators were only given light sanctions or actions by being returned to their parents(Chandra 2024). Children as perpetrators of criminal acts whose criminal threat is more than 7 years old, should at least be given guidance in institutions or job training as a preventive and deterrent effect so that children no longer repeat their criminal acts or acts. This is the main issue so that the author is interested in researching more specifically the application of criminal sanctions against children of criminal offenders.

A concrete example is the case of motorcycle theft committed by three elementary school children in Gresik on Tuesday (18/3/2025) in the early morning. The three are even known to sell the stolen motorcycle for only IDR 150 thousand to be able to play at the entertainment center. In the Law on the Juvenile Criminal Justice System (SPPA Law), children under the age of 12 are included in the category that cannot be held criminally responsible. Referring to Article 21, the children are not processed like adult criminals.

In the case of the three children who stole the motorcycle, their motivation was simply to play in the entertainment center. "This is where the importance of digging deeper, why don't they just ask their parents? Are there any economic problems? Is living in a broken home? All of this must be analyzed so that coaching actions are right on target.

In this article, the author will analyze juridically the application of sanctions for the act of return to parents against children who commit criminal acts. The discussion will cover the legal aspects that govern these sanctions, the effectiveness of their implementation, and the challenges faced in their implementation. It is hoped that the results of this analysis can provide deeper insights into child protection and social justice.

2. THEORETICAL STUDY

Principles of Child Protection Law

Laying down the principles of the Child Protection Law is a prerequisite for classifying HPA as a legal institution from the Criminal Procedure Law subsystem. As is the nature of the law itself, creating a structural system must prioritize the functioning of the element of legality that is the basis for imposing sanctions, eliminating the risk of victims and others from formal restrictions in the criminal law process and criminal procedural law(Prisdawati and Zuhdy 2021). The

principle of HPA in the provisions of criminal law basically follows the provisions that are the main essence of the provisions of the criminal law and the criminal procedure law.

These provisions are due to their proportional nature contained in the criminal law and the criminal procedure law. It is also due to the existence of the Child Protection Law itself as a subsystem of law and the purpose of criminal law in general that has just been socialized (Arifah, Wahyudi, and Retnaningrum 2023).

Starting from the conception of child protection that is complete, comprehensive and comprehensive, the basis of the obligations laid for child protection are the principles that are in accordance with *the Convention on the Rights of the Child* jo. Article 2 of Law Number 23 of 2002 as updated through Law Number 35 of 2014 as follows:

- a) The principle of non-discrimination does not discriminate against ethnicity, religion, race, class, gender, ethnicity, culture and language, legal status, child's order of birth, and physical or mental condition.
- b) The principle of the best interests for the child. What is meant by the principle of the best interest for children is that in all actions concerning children carried out by the government, society, legislative bodies and judiciary, the best interests of children must be the main consideration.
- c) The foundation for life, survival and development. The right to life, survival and development of children are the most basic rights for children that are protected by the state, government, society, family and parents.
- d) The principle of respect for children's opinions. This principle is respect for the rights of children to participate and express their opinions in decision-making, especially when it comes to matters that affect their lives.

In Article 2 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the Legal Principles of Child Protection have developed rapidly to 10 (ten) points are as follows:

- a) Protection b) Justice c) Non-discrimination d) The best interests of the Child e) Respect for the Child's opinion f) Survival and development of children g) Child Development and Guidance h) Proportional i) Deprivation of independence and criminalization as a last resort; and Avoidance of retaliation

Criminal Purpose Theory.

Perpetrators who commit criminal acts can be subject to criminal punishment against them, punishment according to the Criminal Code Article 199 Paragraph (1) is a matter related to crime; For example, the purpose or intent of the criminal sentence.

In criminal sentencing adhering to the theory of punishment, the purpose of punishment is classified into 3 (three) theories:

a) Absolute theory or theory of retaliation.

According to Andi Hamzah, the theory of retribution states that crime is not aimed at practical, such as fixing crimes. The crime itself contains elements to be punished, the crime absolutely exists, because a crime is committed. There is no need to think about the benefits of criminal imposition (Hamzah 1993). This theory emphasizes the purpose of punishment with retribution with a system of revenge, the person who has committed the crime must be recompensed with a deserved suffering, without thinking about the benefits.

b) Relative theory or objective theory.

About this theory, Muladi and Barda Nawawi Arief explained that "*Crime is not just to take revenge or reward the person who has committed a criminal act, but has certain useful purposes*". Therefore, this theory is also often called the theory of purpose (*utilitarian theory*). So the basis for justifying the existence of a crime according to this theory lies in its purpose. The penalty is not imposed "*quia peccatum est*" (because people commit crimes) but "*nepeccetur*" which means that people do not commit crimes (Muladi and Arief 2010).

Criminalization does not only prioritize retribution, because in this theory it also thinks about its benefits (Maulitha Susatya 2021). The purpose of crime according to relative theory is to prevent order in society from being disturbed. In other words, the punishment imposed on the perpetrator of the crime is not to avenge his crime, but to maintain public order.

Legal Protection Theory.

Basically, every human being is born as a creature created by God Almighty who naturally gets basic rights, namely freedom, the right to life, the right to be protected, and other rights (Prisdawati and Zuhdy 2021). In formulating the principles of legal protection in Indonesia, the foundation is Pancasila as the ideology and philosophy of the state. The conception of legal protection for the people in the west is based on the concepts of *Rule of law* and *Rule of Law*. By

using Western conceptions as a framework of thinking based on Pancasila, the principle of legal protection in Indonesia is the principle of recognition and protection of human dignity and dignity that is sourced from Pancasila (Tantra, Widiyantara, and Suryani 2020).

Satjipto Rahardjo stated that legal protection is an effort to protect a person's interests by allocating power to him to act in his interests. Furthermore, it was also stated that one of the characteristics and at the same time the purpose of the law is to provide protection (protection) to the community. Therefore, legal protection for the community must be realized in the form of legal certainty (Satjipto Rahardjo 2009).

Legal protection is something that protects legal subjects through applicable laws and regulations and is forced to implement it with a sanction. Legal protection can be divided into 2 (two), namely: (Ahmad and Kamri 2022)

a) Preventive Legal Protection

Protection provided by the government with the aim of preventing before a violation occurs. This is contained in the laws and regulations with the intention of preventing a violation and providing signs or limitations in carrying out an obligation. (Kamri, Andi Khaedhir, Ahmad, Kamri, M 2020)

b) Repressive Legal Protection

Repressive legal protection is the final protection in the form of sanctions, such as fines, imprisonment, and additional punishments given if there has been a dispute or a violation has been committed (Tanjung, Sulastris, and Adawiah 2023).

Social Control Theory

This theory argues that individuals will tend to avoid deviant behavior if they have strong ties to society and family. In the context of sanctioning repatriation actions, if parents can strengthen the bond with their child and provide better supervision, then the child will be more likely to avoid criminal behavior in the future.

3. RESEARCH METHODS

This research uses the Normative Juridical research method. This method is carried out by conducting a study and analysis of laws and regulations by collecting and reviewing various sources of literature, such as laws, theories, legal principles, books, scientific journals, laws, research reports, and other relevant official documents. The focus of the analysis is on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) as the legal basis for the application of action sanctions in the form of return to parents for children who commit crimes.

Through the in-depth *methods of Case Approach, Statute Approach and Conceptual Approach*, the author seeks to gain a sharper perspective on the challenges and successes in the implementation of sanctions for return actions to parents. The collected data is then analyzed to identify emerging patterns and themes, as well as to provide recommendations based on research findings by providing more comprehensive long-term, short-term, and normative juridical indications.

4. RESULTS AND DISCUSSION

The application of sanctions for the act of returning to parents against children who commit criminal acts is regulated in Articles 22 to 24 of the SPPA Law. These articles emphasize the importance of the role of parents in the child rehabilitation process. However, in practice, the application of these sanctions often encounters obstacles. One of the main obstacles is the lack of understanding of parents regarding their responsibilities in educating and nurturing children (Hesti, Hidjaz, and Djanggih 2024).

According to data from the Ministry of Women's Empowerment and Child Protection, about 60% of parents whose children are involved in criminal acts do not have adequate knowledge about their rights and obligations. This has an impact on the lack of support provided to the child during the rehabilitation process. For example, in the case of a theft involving a 14-year-old child, his parents were not present at the mediation process held by the authorities, so the child felt neglected and did not get the necessary guidance (Sugama et al. 2024).

The effectiveness of the sanctions for return actions is also influenced by the socioeconomic conditions of the family. Many families experience economic difficulties so that they are unable to provide good education and supervision to their children (Suryani 2020). A study

conducted by the Child Protection Agency shows that children from underprivileged families are more vulnerable to being involved in criminal acts. In this case, the sanctions of return measures are not effective enough if they are not accompanied by economic and educational support programs for families(Chandra 2024).

a) Legal Basis for the Implementation of Sanctions for Return Action

Sanctions for returning to parents as a form of legal accountability for children who commit criminal acts are regulated in Article 20 of Law Number 11 of 2012. In this article, it is stated that children who commit criminal acts can be subject to rehabilitative sanctions, including return to their parents. This shows that Indonesian law prioritizes the *restorative justice*, which aims to restore the condition of the child and his family(Ahmad and Kamri 2022). Data from the Ministry of Women's Empowerment and Child Protection (KPPPA) shows that in 2022, around 60% of children of criminal offenders received rehabilitative sanctions, including return to their parents, as an alternative to prison sentences.

b) Psychological Impact on Children and Parents

The application of sanctions for return actions to parents not only has an impact on the legal aspect, but also on the psychological condition of children and parents. Research by Sari (2021) shows that children who are returned to their parents tend to show behavioral improvements in the long term, especially if the parents are actively involved in the rehabilitation process(Andayani, Achmad, and Flambonita 2021). However, there is also a risk that this return can lead to stress and conflict within the family, especially if the parents are not ready to accept the child back. Data from a survey conducted by the Indonesian Child Protection Institute (LPAI) shows that 45% of parents find it difficult to accompany their children who have recently undergone legal proceedings (LPAI, 2022).

c) Case and Field Implementation

One of the relevant cases is the case of a 14-year-old child who was involved in a theft. After going through the legal process, the child is subject to the sanction of returning to the parents(Suryandi, Hutabarat, and Pamungkas 2020). In the rehabilitation process, the child's parents are involved in counseling and education sessions about good parenting. As a result, the child successfully readapts to his social environment and shows positive changes in his behavior. This case shows that with the right support, reinstatement sanctions can be an effective solution in addressing child deviant behavior(Kamri 2025).

A concrete example of a case that occurred was a child who committed the crime of murder and also rape a junior high school student in Palembang City in October 2024. According to the author, this crime can only be committed by adults. The results of the author's personal analysis assessed that crimes committed by minors and minors are increasing and significant. If referring to the applicable regulations, then children who are in conflict with the law cannot be punished or processed legally like adults in general. This is where the problem lies in terms of the purpose of the law itself, namely justice and utility.

The legal system that has been built through *Restorative Justice* has not been able to reduce the number of crimes committed by children. In fact, the opposite happened. If all perpetrators of crimes committed by children are sanctioned in the form of return to their parents, what happens hurts the value of the sense of justice of the law itself. Sanctions Actions in the form of restitution to the elderly need to be considered with in-depth study and analysis. Especially for APH (Law Enforcement Apparatus) as the main pillar of the *due process of law* and criminal justice system.

d) Legal Impact and Analysis

The application of sanctions for the act of returning to parents against the child of the perpetrator of the crime cannot be separated from the legal aspects that must be considered. In the legal context, Indonesia has several regulations that regulate child protection and the handling of cases involving children as perpetrators of crimes. One of the main regulations is Law No. 11 of 2012 on the Child Criminal Justice System, which emphasizes the importance of child rehabilitation of offenders compared to prison sentences.

Sanctions for the act of returning to parents can be considered as a form of rehabilitation that is in line with the principles in the law. However, in practice, there are often challenges in the implementation of this policy. For example, there are cases where children are returned to parents who are unable to provide a safe and supportive environment. This can cause the child to fall back into criminal behavior, which will ultimately harm themselves and society.

In this context, it is important to consider the existence of a strict supervision and evaluation mechanism for parents after the child is returned. One solution that can be proposed is the establishment of a mentoring team consisting of psychologists, social workers, and other authorities to assist parents in educating and guiding their children. With this team, it is hoped that parents can better understand their role and get the necessary support.

In addition, the legal analysis must also consider the long-term impact of these sanctions policies. If parents do not have adequate abilities to educate their children, then this policy can potentially cause bigger problems in society.

One of the expected positive impacts of this policy is increasing parents' awareness of their role in educating their children. With the sanction of return action, it is hoped that parents will be more active in monitoring their children's behavior and providing the necessary guidance. Research shows that parental involvement in a child's educational process can reduce the risk of engaging in criminal behavior. Therefore, if parents can take an active role, then the long-term impact can be positive.

However, there are also risks to be aware of. If parents do not have enough skills or knowledge to educate a child, then this policy can potentially create new problems. Children who return to an unsupportive environment may experience neglect or even violence, which can cause them to re-engage in criminal behavior. This shows the need for mentoring programs for parents to ensure they have the necessary skills to educate their children.

In this case, it is important to periodically evaluate the policy of sanctions for return actions to parents. By conducting an evaluation, the authorities can identify the challenges faced and make the necessary adjustments to improve the effectiveness of these policies. Thus, it is hoped that the long-term impact of this policy can be more positive and sustainable.

e) Challenges in the Application of Sanctions

Although the sanction of return action to parents has a lot of positive potential, there are various challenges in its implementation (Rizqian 2021). One of the main challenges is the lack of understanding of parents regarding their role in child rehabilitation (Kamri, Andi Khaedhir, Ahmad, Kamri, M 2020). Many parents feel confused and do not know how to accompany their children who are involved in criminal acts. In addition, social stigma is also an obstacle, where children and parents are often faced with negative judgments from society. According to data from the Central Statistics Agency (BPS), about 30% of parents report experiencing social discrimination after their child is involved in a criminal case (Panggabean, Eddy, and Sahari 2024).

Another challenge faced in the implementation of these sanctions is the social stigma attached to the children of criminal offenders (Tanjung et al. 2023). Society often considers such children to be "dangerous" and "irreparable", resulting in ostracization. This can worsen the child's psychological condition and hinder the rehabilitation process (Arifah et al. 2023). For example, in

the case of a child who is involved in an act of violence, the child experiences rejection from his peers, which makes him even more isolated.

However, it should be noted that not all parents have the same ability to educate children. There are significant differences in parenting skills between parents who come from different educational backgrounds. This suggests that a remedial action sanctions policy should be accompanied by a mentoring program for parents to ensure they have the necessary knowledge and skills in educating children.

Overall, a strong theoretical foundation will help in understanding and evaluating the effectiveness of the application of return action sanctions to parents. By referring to these theories, it is hoped that the policies taken can be more targeted and have a positive impact on children and society as a whole.

f) Recommendations for Improvement

To increase the effectiveness of sanctions for return actions to parents, it is necessary to have education and training programs for parents. Governments and relevant agencies should work together to provide adequate resources, including counseling and psychological support(Amanda 2024). In addition, campaigns to reduce social stigma against children of criminal offenders are also very important. With a more comprehensive approach, it is hoped that the return sanction can have a more positive impact on children and their families(Priambada 2024).

In order to increase the effectiveness of sanctions for return actions to parents, cooperation between the government, the community, and educational institutions is needed. Programs that involve parents in the child rehabilitation process must be strengthened. In addition, education about the rights and obligations of parents and the importance of supervision of children must also be improved(Prisdawati and Zuhdy 2021). Thus, it is hoped that the return action can be more successful in fostering the children of criminal offenders so that they do not repeat their actions in the future.

Overall, the legal analysis of the application of the sanctions of return measures to parents should consider various aspects, including child protection, rehabilitation, and support for parents. With the right approach, it is hoped that this policy can provide an effective solution in dealing with the problem of crime involving children in Indonesia.

5. CONCLUSIONS AND SUGGESTIONS

In conclusion, the application of sanctions for the return action to parents against children of criminal offenders has a strong legal basis, but still faces various challenges in practice. The effectiveness of these sanctions is greatly influenced by the role of parents, family socioeconomic conditions, and existing social stigma. Therefore, a comprehensive approach is needed to improve the success of child rehabilitation.

One solution that can be proposed is the establishment of a mentoring team consisting of psychologists, social workers, and other authorities to assist parents in educating and guiding their children. With this team, it is hoped that parents can better understand their role and get the necessary support.

In addition, the legal analysis must also consider the long-term impact of these sanctions policies. If parents do not have adequate abilities to educate their children, then this policy can potentially cause bigger problems in society.

Suggestions that can be given are the need for educational programs for parents about their responsibilities in educating children, as well as social and economic support for underprivileged families. In addition, the community also needs to be involved in the child rehabilitation process so that social stigma can be minimized. Thus, it is hoped that children involved in criminal acts can return to the right track and contribute positively to society.

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