

Criminal Law Enforcement for Children Who Perpetrated Hit-and-Run Accidents Resulting in Death in Traffic Accidents (Case Study Number 19/Pid.Sus-Anak/2024/PN.Mks)

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ABSTRACT

A traffic accident is a sudden and unintentional incident on the road, involving a motorized vehicle and other road users, and causing human casualties and property damage. This study aims to analyze the enforcement of criminal law against children as perpetrators of hit-and-run accidents that result in death in traffic accidents. The research method used is a normative juridical approach with qualitative data analysis. The results show that the handling of children who commit hit-and-run crimes in Indonesia is regulated by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which emphasizes the principles of restorative justice, diversion, and the protection of children's rights. The role of parents, law enforcement officers, and the government is very important in prevention and response efforts. In practice, judges tend not to impose detention sentences to prevent children from being imprisoned.

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1. INTRODUCTION

Road traffic plays a strategic role in supporting social and economic activities. However, increased mobility is not always accompanied by compliance with the law among road users, so traffic accidents remain a serious problem. A traffic accident is essentially a sudden and unintended event on the road that involves a motorized vehicle and other road users, resulting in loss of life and material losses. Therefore, traffic accidents are not merely viewed as technical events, but also as legal and social issues that require comprehensive management (Perdana & Atmoko, 2023).

In an effort to ensure security, safety, order, and smooth traffic flow, the state enacted Law Number 22 of 2009 concerning Traffic and Road Transportation. This law serves as the legal basis for regulating traffic behavior and enforcing the law against traffic violations and crimes. One form of crime that has serious consequences is the act of hit-and-run. A hit-and-run is generally defined as the act of a motorized vehicle driver involved in a traffic accident but intentionally fails to stop the vehicle, fails to provide

assistance to the victim, and leaves the scene without taking responsibility for the consequences of his actions (Buntara, 2019).

Data from the Indonesian National Police Traffic Corps, through the Traffic Accident Subdirector, shows that 148,307 traffic accidents occurred in Indonesia from January to December 2023. This number represents an increase compared to 2022, which recorded 140,248 accidents. This increase in accidents indicates that effective law enforcement and public awareness of traffic laws still face various challenges. In this context, hit-and-runs reflect the perpetrator's irresponsibility and contradict moral, social, and legal norms prevailing in society (Waruwu, 2021).

Traffic accidents are influenced by various interrelated factors, including vehicle condition, road infrastructure, pedestrian behavior, and compliance with traffic signs. However, the most dominant factor is driver negligence. This negligence is related to internal factors within the individual as a legal subject, such as poor concentration, inadequate driving skills, uncontrolled emotional reactions, physical and mental fatigue, psychological disorders, and low discipline and compliance with traffic regulations. These factors have the potential to significantly trigger traffic accidents (Perdana & Atmoko, 2023).

The problem becomes even more complex when the perpetrator of a hit-and-run is a minor. Children have different psychological conditions and levels of maturity than adults, so they often do not fully understand the legal consequences of their actions. This is reflected in a hit-and-run case that occurred within the jurisdiction of the Makassar City Police in 2024, which resulted in the death of a victim. In that case, the perpetrator, a child, hit the victim who suddenly crossed the road and then fled the scene. Although the public prosecutor requested a prison sentence, the judge did not impose detention, considering the protection of the child's future.

Normatively, hit-and-run accidents resulting in death are regulated in Article 310 paragraph (4) and Article 312 of Law Number 22 of 2009 concerning Traffic and Road Transportation. These provisions regulate the threat of imprisonment and fines for perpetrators of traffic accidents resulting in death and for drivers who intentionally do not stop the vehicle and do not provide assistance to the victim (Sangki, 2023). However, the application of criminal sanctions against children cannot be separated from special provisions regarding child protection.

Protection for children in conflict with the law is regulated in Law Number 23 of 2002 concerning Child Protection as amended by Law Number 35 of 2014. This law emphasizes that child victims and perpetrators of criminal acts have the right to receive protection in the form of rehabilitation, identity protection, and legal assistance. In addition, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System emphasizes the application of the principles of restorative justice and diversion in resolving juvenile cases, with the main goal of restoring the situation and ensuring the best interests of the child.

In the juvenile criminal justice system, law enforcement officers are required to prioritize a humanistic and proportional approach. Children who are criminals still have human rights that must be respected and protected, as stipulated in Law Number 39 of 1999 concerning Human Rights. Therefore, law enforcement against juvenile hit-and-run perpetrators must be implemented in a balanced manner, ensuring legal certainty, a sense of justice for the victim, and protecting the child's future.

Based on this description, criminal law enforcement against children involved in hit-and-run accidents resulting in death involves not only the application of traffic law norms but also closely related to the principles of child protection and human rights. This situation demonstrates the importance of in-depth legal studies regarding the effectiveness of criminal law enforcement against child hit-and-run accidents and the application of restorative justice in the juvenile criminal justice system in Indonesia.

Based on the background of the problem that has been proposed previously, the main focus of the title that will be taken by the researcher for this research is Criminal Law Enforcement for Children Who Are Hit-and-Run Perpetrators Resulting in Death in Traffic Accidents (Case Study Number 19/PID.SUS-Anak/2024/PN.Mks).

2. METHODS

The normative legal research method is used to examine law as a norm or rule that applies in the legal system, with an emphasis on the analysis of legal principles, norms, and doctrines (Soekanto & Mamudji, 2014). The statutory approach is carried out by examining relevant legal provisions to determine the consistency and suitability of legal norms in regulating a legal event (Marzuki, 2017). The case approach is used to understand the application of legal norms in judicial practice through an analysis of court decisions that have permanent legal force (Ibrahim, 2006). Legal materials in normative legal research consist of primary, secondary, and tertiary legal materials collected through literature studies (Soekanto, 2015). The analysis of legal materials is carried out qualitatively with descriptive-analytical methods to provide a systematic and argumentative picture of the legal problems being studied (Ali, 2016).

3. FINDINGS AND DISCUSSION

Criminal Law Enforcement Against Minors Who Commit Hit-and-Run Crimes According to Criminal Law in Indonesia

Traffic violations are a significant problem, particularly in large cities with rapidly growing vehicle numbers. This situation not only causes congestion but also increases the risk of accidents, including those involving minors. Children who drive motorized vehicles without a license clearly violate Article 77 of Law Number 22 of 2009 concerning Road Traffic and Transportation (LLAJ), because they do not meet the age and competency requirements for a driver's license (SIM), making such actions subject to law enforcement (Waruwu 2021; Setiawan 2023; Muttaqin 2023).

Law enforcement for children differs from that for adults because it is based on the principle of the best interests of the child, as stipulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA). This principle emphasizes rehabilitative, educational, and protective treatment so that children's interactions with the legal system do not have a lasting negative impact on their psychological and social development (Afandi 2023). Therefore, a restorative justice approach is the primary method for handling children who violate traffic laws, emphasizing recovery from the violation, reintegration of the child into society, and the active participation of parents or guardians. Children may be subject to alternative measures such as verbal or written warnings, traffic safety training, social work, or educational programs. If alternative measures are inadequate, children remain under the supervision of their parents or guardians to prevent recurrence and ensure their rights are protected (Yusuf 2022; Zainal 2019; Rahmadhan 2020).

Preventive efforts are also an integral part of law enforcement. Public awareness, parental involvement, school education, and police outreach are essential preventative measures to reduce the risk of violations. Effective law enforcement for children must combine the principles of child protection, restorative justice, and preventive strategies to help children understand legal consequences and foster awareness of the importance of obeying traffic regulations (Sukmandari & Subekti 2020).

In the criminal justice process, police investigators conduct investigations with attention to children's rights. Prosecutors then consider diversion—the transfer of a case from formal criminal proceedings to non-criminal proceedings—if certain conditions are met and agreed upon by all relevant parties, including the victim, the child's family, and law enforcement. Diversion can take the form of education, skills training, social work, or mediation, allowing the child to continue developing and reducing the risk of further involvement in the formal criminal system (Rahmadhan 2020).

In addition to diversion, children in conflict with the law still have the right to protection and educational facilities in juvenile correctional institutions, such as formal schooling, skills training, and mental health counseling, to ensure optimal social reintegration after the correctional period (Harun & Wati 2021). In practice, the implementation of restorative justice involves coordination between police investigators, prosecutors, judges, families, and victims, so that the legal process is not only punitive but also educational, restores victims' rights, and guides children to become responsible members of society (Setiawan 2023; Zainal 2019).

While the Traffic and Road Traffic Law remains the reference for determining legal responsibility for traffic violations, its application to children is aligned with the principles of Child Protection and Restorative Justice (SPPA) and restorative justice. Police Regulation Number 8 of 2021 provides additional guidance for implementing this approach, ensuring that law enforcement against children who violate traffic laws comprehensively integrates aspects of punishment, education, prevention, and protection of children's rights. Therefore, handling traffic violations by children is not simply a criminal mechanism, but a comprehensive process that emphasizes recovery, education, social reintegration, and legal compliance, in accordance with the principles of child protection and restorative justice.

The Role of Parents, Law Enforcement, and the Government in Handling and Preventing Hit-and-Run Crimes Committed by Children

Children are a vulnerable group to social and legal risks, especially when they are on the streets without parental supervision and understanding of traffic regulations. The phenomenon of children driving motor vehicles without a license or being involved in hit-and-run accidents demonstrates an imbalance between family supervision, education, and law enforcement. Children who commit violations should not be treated the same as adults, but rather receive an approach that emphasizes education, guidance, and rehabilitation to support their psychological and social development (Nugroho & Pujiyono, 2022).

Law No. 23 of 2002 concerning Child Protection emphasizes that detention or criminal action against children should only be a last resort and must comply with applicable law. However, practice shows that many children are still brought to court or imprisoned, which puts them at risk of violence, trauma, and negative influences from adult prisoners (Anbiya Zaliana & Panjaitan, 2023). The Juvenile Criminal Justice System (Law No. 11 of 2012) emphasizes the principle of the best interests of the child, including investigation, prosecution, and trial procedures that focus on rehabilitation and education.

Parents play a crucial role in preventing and handling hit-and-run accidents involving children. Parents need to guide, supervise, and model good traffic behavior. Preventive strategies include traffic safety education, active supervision, restricting motorized vehicle access for minors, and open communication about the risks and legal consequences. If a child is involved in a hit-and-run, parents are responsible for any losses incurred, coordinate with authorities and the victim, provide guidance, and accompany the child through the legal process. This approach helps minimize the risk of recurrence and instills legal awareness from an early age (Harun & Wati, 2021; Nugroho & Pujiyono, 2022).

The police have a strategic role in handling and preventing hit-and-run accidents, through both preventive and repressive measures. Preventive measures include education, outreach, safety campaigns, raids on underage vehicles, and the placement of signs and lighting in accident-prone areas. Repressive measures include investigations, inquiries, mediation between perpetrators and victims, and enforcement of legal sanctions according to the level of loss and injury. The police also conduct personnel training to handle child cases professionally (Pasambuna, 2022). Challenges faced include children's fear, lack of understanding of legal consequences, non-compliance with regulations, and limited resources. Therefore, implementing diversion, namely the transfer of cases to non-criminal channels through education, guidance, and social guidance, is a strategy to protect the best interests of children (Zaliana & Panjaitan, 2023).

The government also plays a crucial role in creating a safe traffic environment. Its responsibilities include enforcing traffic regulations, providing safe infrastructure such as sidewalks, pedestrian bridges, low-speed zones in school areas, and installing clear road signs and markings. Furthermore, the government can organize outreach programs, incorporate traffic safety materials into the educational curriculum, and provide safe driving training for prospective driver's license holders. Synergy between the government, police, schools, parents, and the community is key to fostering a culture of responsible traffic driving and preventing accidents and hit-and-run crimes involving children.

Therefore, preventing and addressing hit-and-run accidents involving children requires a multidimensional approach involving parents as mentors, the police as law enforcers and educators, and the government as regulator and infrastructure provider. This integrated approach emphasizes education, rehabilitation, child rights protection, and legal awareness building, so that young people can grow into responsible individuals who are safe and obey traffic laws.

Analysis of Decision Number: 19/Pid.Sus-Anak/2024/PN.Mks, Regarding the Implementation of Sanctions Against Child Perpetrators Who Commit Hit-and-Run Acts

Minors involved in traffic accidents may be subject to criminal sanctions, but their implementation must adhere to the principles of juvenile criminal justice. The punishments imposed are tailored to the child's psychological condition and age, as well as the potential harm posed by their actions. The primary goal of these sanctions is guidance and rehabilitation, not mere retribution. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) emphasizes that children in conflict with the law must receive special protection, justice, and be treated in accordance with their best interests.

In the Child Protection and Traffic Control Law, the punishment imposed on a child may not exceed half of the maximum punishment imposed on an adult for a similar crime (Article 81 of the Child Protection Law). If an accident results in death, the child can be charged under Article 310 paragraph (4) of Law Number 22 of 2009 concerning Traffic and Road Transportation. In addition, parents or guardians can also be held criminally responsible if they are proven to have been negligent or intentionally allowed a child to drive a vehicle without a driving license (Article 13 paragraph 1 of the Child Protection Law).

In Indonesia, the definition of a child is not yet uniform, as each law provides different age limits and categories. Generally, a child is defined as an individual under the age of 18 and unmarried (Yusuf, 2022). The Child Protection and Child Protection Law stipulates that children in conflict with the law are those aged 12 to 18 who are suspected of committing a crime. The term "strafbaar feit," or criminally

punishable event, is used to explain the concept of juvenile crime, which essentially emphasizes acts that are punishable but are treated differently than adults (Setiawan, 2023).

The Juvenile Justice and Child Protection Law (SPPA) replaced the Juvenile Justice Law (No. 3 of 1997) to ensure the best possible protection for children. The key elements of the SPPA Law include the principles of restorative justice and diversion, which encourage the resolution of juvenile cases outside the judicial process to avoid stigmatization and facilitate social reintegration. Diversion involves victims, children, parents, families, and the community in seeking just solutions, reconciliation, and recovery (Mustafa, 2024).

The Child Protection and Child Protection Law (SPPA) distinguishes children into three categories: perpetrators, victims, and witnesses (Article 1, numbers 3–5). Child perpetrators can be subject to action if they are under 14 years old, and criminal action for children aged 15 years and over. Actions that can be imposed include return to parents/guardians, treatment in hospitals or LPKS (Government Institution for Children), mandatory education or training, and reparations for the consequences of the crime (Article 82 of the SPPA Law). Meanwhile, criminal penalties are divided into principal penalties (warnings, counseling, job training, or imprisonment) and additional penalties (confiscation of profits or fulfillment of customary obligations) (Article 71 of the SPPA Law).

Children under 12 years of age who are suspected of committing a crime are not subject to criminal penalties, but are directed to participate in educational, developmental, and guidance programs at government agencies or LPKS for a maximum of six months (Article 21 of the SPPA Law). During the judicial process, children have the right to humane treatment, separation from adults, legal assistance, recreational activities, education, health services, and protection from torture or degrading punishment (Article 3 of the SPPA Law).

In practice, Indonesia's juvenile justice system emphasizes diversion at every stage, from investigation to prosecution to trial. For example, in Decision Number 19/PID.SUS-Anak/2024/PN.Mks, a child involved in a traffic accident that resulted in death was treated at the LPKS (Institution for the Correctional Services) for ten months, without detention, due to considerations of age, educational status, trauma, and the institution's distance from home. The judge's decision emphasized that children should receive parental love, guidance, and opportunities for social reintegration.

Legal remedies for child perpetrators of crimes remain possible through appeals, cassation, and judicial reviews, but with an emphasis on child protection and diversion. This approach aligns with the principles of the Beijing Rules and Joint Decree No. 166 A/KMA/SKB/XII/2009 and other related regulations, which require law enforcement to involve parents, community leaders, and social institutions in the care of children. Thus, the juvenile criminal justice system in Indonesia focuses on rehabilitation, protection of children's rights, and moral and social education, rather than simply punishment.

4. CONCLUSION

Criminal law enforcement against minors who commit hit-and-run crimes in Indonesia is specifically regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). Children involved in criminal acts, including hit-and-runs, are processed through a juvenile justice system that emphasizes the principles of restorative justice and diversion, while still upholding the protection of children's rights. In implementing this justice, the roles of parents, law enforcement, and the government are crucial. Parents are responsible for educating and supervising children to prevent violations, law enforcement is responsible for enforcing the law and imposing appropriate

sanctions, while the government needs to formulate effective prevention policies and programs to prevent similar crimes from occurring. In practice, judges' decisions tend to avoid detention for children, with maximum efforts to avoid lengthy trial processes and to save children from imprisonment. The main focus remains on the development, rehabilitation, and reintegration of children into their social environment in a natural manner.

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