




Law Enforcement in Child Fighting Crimes That Result in Death

Andi Muhammad Fikri 

Faculty of Law, Indonesian Muslim University

Mursyid Mursyid 

Faculty of Law, Indonesian Muslim University,

<https://orcid.org/0009-0008-8087-7369>

Muhammad Fauzi ramadhan 

Faculty of Law, Indonesian Muslim University,

<https://orcid.org/0009-0003-9180-7378>

Corresponding author's email:

fikripanca24mei@gmail.com

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Abstract

This study aims to find out and analyze how law enforcement against child fighting crimes that result in death and to find out and analyze what causes law enforcement to criminal acts of child fights that result in death. This study uses empirical normative research methods. The results of this study indicate that various law enforcement efforts have been carried out by the Takalar Resort Police apparatus in preventing and eradicating the Crime of Child Fights That Cause Death, starting from preventive and repressive efforts and as for the causes of inhibition of law enforcement against the Crime of Child Fights that Cause Death at the Resort.

Takalar Police can be seen from three aspects, namely; components of structure, legal substance and legal culture. The recommendations of this research are expected to parents especially those with teenage children to be more familiar with the association and environment in which children interact on a daily basis. Parents must control their children more at least by maintaining worship and providing understanding about religion to children from an early age and socializing to avoid evil deeds and it is hoped that law enforcers, especially Takalar Resort officers must be more active in conducting patrols and raids in places which is prone to crime, the police and local government should conduct socialization more often in an environment that is prone to brawls, especially socialization to children because children are very vulnerable to bad associations.

Keywords: Criminology; Fighting; Dead; Child;

Abstrak

Penelitian ini bertujuan untuk mengetahui dan menganalisis bagaimana penegakan hukum terhadap tindak pidana perkelahian anak yang mengakibatkan kematian serta unyukmengetahui dan menganalisi apa sebab penghambat penegakan hukum terhadap tindak pidana perkelahian anak yang mengakibatkan kematian. Penelitian ini menggunakan metode penelitian normatif empiris. Hasil penelitian ini menunjukkan bahwa berbagai upaya penegakan hukum telah dilakukan oleh aparat Resort Polres Takalar dalam mencegah dan memberantas Tindak Pidana Perkelahian Anak yang Mengakibatkan Kematian mulai dari upaya preventif maupun upaya represif dan adapun sebab penghambat penegakan hukum Terhadap Tindak Pidana Perkelahian Anak yang Mengakibatkan Kematian di Resort Polres Takalar dapat dilihat dari tiga aspek yaitu; komponen struktur, subtansi hukum dan budaya hukum. Rekomendasi penelitian ini adalah diharapkan kepada orangtua terkhusus yang

memiliki anak remaja agar lebih memperhatikan pergaulan dan lingkungan dimana anak berinteraksi sehari-hari. Para orang tua harus lebih mengontrol lagi anak mereka setidaknya dengan menjaga ibadah dan memberikan pemahaman tentang agama kepada anak sedari dini dan diberikan batasan pergaulan untuk menghindari anak dari perbuatan jahat serta diharapkan kepada penegak hukum khususnya aparat Resort Polres Takalar harus lebih giat lagi melakukan patroli dan razia di tempat-tempat yang rawan terjadi suatu kriminalitas, pihak kepolisian serta pemerintahan setempat harus lebih sering lagi melakukan sosialisasi di lingkungan yang rawan terjadi tawuran, khususnya sosialisasi kepada anak karena anak sangat rentan terbawa ke pergaulan yang buruk.

Kata kunci: Perkelahian, Kematian, Anak

A. Introduction

One of the rights of citizens guaranteed and recognized in the 1945 Constitution of the Republic of Indonesia is the right to a sense of security and peace. This provision is a mandate from Article 28 G paragraph (1) of the 1945 Constitution of the Republic of Indonesia which in principle guarantees every person the protection of their person, family, honor, dignity and property under their control, as well as the right to a sense of security and protection from the threat of fear.¹ This is also increasingly emphasized in Law Number 39 of 1999 concerning Human Rights, especially in Article 30 and Article 35 which provide guarantees in the form of legal certainty and protection of everyone's right to feel safe, peaceful, serene and not feel afraid in social and state order which is part of human rights.²

Creating a safe and peaceful living environment requires various efforts

¹ Article 28 G paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

² Law Number 39 of 1999 concerning Human Rights.

to monitor and control activities that have the potential to threaten public peace, one example of which is controlling brawling/fighting activities. A brawl is a gang fight or mass brawl that is often carried out between two groups that are different from each other.³ Brawls often occur as a manifestation of social tension or can also be caused by feelings of general discontent (sense of discontent), dissatisfaction with communication (communication of discontent), dissatisfaction with social symbols (social attribution of discontent), and dissatisfaction with the possibility of resolution (probability of resolution of discontent) as well as the existence of resource mobilization. Brawls also occur with dissatisfaction between people which then gives rise to a sense of misunderstanding between them and ultimately conflict with each other.⁴

Group fights or what is better known as brawls often occur among children. In fact, as we know, children are the generation who will later carry on the baton of the nation's struggle and the country's ideals.⁵ Based on data released by the Indonesian Child Protection Commission, the number of brawls carried out by children, especially school children, continues to increase from year to year.⁶ These various problems, of course, cause fear in society, especially among students who are the nation's future generations. In fact, quite a few of these fights resulted in death, one example is the brawl case that recently occurred in Serang City on January 13 2022 which resulted in the death of a child as a result of being hit by a sharp weapon.⁷ Not only in the city of Serang, this brawl also occurred in Takalar City, South Sulawesi on January 18 2022, which resulted in serious injuries to a student at SMA Negeri 5 Galesong. The victim's mother fainted when she tried to stop the children who were beating her son. Meanwhile, the victim's aunt was also injured and suffered a broken finger as a result of

³ Andi Mappiare. 1998. Psikologi Remaja. Surabaya: National Enterprise.

⁴Hidayat Arbi. 2014. Solusi Tawuran dengan Alquran. <http://hidayatiarbi.blogspot.com/2014/02/Solusi-tawuran-dengan-cepatan-al.html?m=1>. (accessed January 14, 2022).

⁵ Yunisca Nurmalisa. 2017. Pendidikan Generasi Muda. Yogyakarta: Media Academy.

⁶ People's Thoughts com. 2021. <https://berita.giveaway.my.id/hosthttpswww.mindanakyat.com/pendidikan/pr-013345547/kpai-rilis-data-perundungan-sebuah-2021-tawuran-pelajar-most-most>. (accessed January 14, 2022).

⁷ SindoNews. 2022. <https://www.sindonews.com/topicamp/18602/tawuran-pelajar>. (accessed January 14, 2022).

the incident.⁸ Brawling is a form of criminal act, because basically brawling violates Article 351 of the Criminal Code, Article 358 of the Criminal Code, Article 170 of the Criminal Code, Article 355 of the Criminal Code and Article 489 of the Criminal Code. Regarding the application of these articles, we must first look at the elements involved in the brawl incident. However, in terms of law enforcement regarding brawls, there is no criminal responsibility if the perpetrator is a child, because the action is considered to be just mischief, so to resolve the case you can only use the juvenile justice system, or diversion efforts, namely an effort to prevent a child from entering the crime. in the juvenile justice system. Diversion efforts can only be carried out based on the permission of the victim and his family, as well as the willingness of the perpetrator and his family.⁹

Of course, the Juvenile Justice System has its own characteristics and features in treating children as perpetrators, victims and witnesses. The judicial process and sanctions imposed on children are of course different from adults who have the same qualifications for criminal offenses in the provisions of the Criminal Code. This of course aims to protect children's rights so that children's mental and psychological abilities can continue to grow and develop for their future.¹⁰ So referring to the description above, the author is interested in discussing and researching the issue of "Law Enforcement in the Crime of Child Fighting which Resulted in Death (Takalar Police Case Study)".

The problem formulation of this research is How is law enforcement regarding criminal acts of child fighting which resulted in death at the Takalar Police Resort? And what are the reasons for preventing law enforcement against the criminal act of child fighting which resulted in the death of the Takalar Resort Police?

The aim of this research is to find out and analyze law enforcement regarding criminal acts of child fighting which result in death and what are

⁸ Tvone. 2022. <https://www.tvonenews.com/region/sulawesi/23366-pelajar-sma-di-takalar-dikeroyokteman-sebelas-ibu-dan-tante-yang-melerai-ikut-jadi-korban-luka>. (accessed January 20, 2022).

⁹ Sanjaya and Okta. 2012. *Hukum Pidana dan Tawuran Pelajar* [thesis]. (ID): Atma Jaya Indonesian Catholic University.

¹⁰ Pradityo, Randy. 2016. Keadilan Restoratif dalam Sistem Peradilan Anak. *Jurnal Hukum dan Keadilan*. Vol. No.3.

the causes of obstacles to law enforcement against criminal acts of child fighting which result in death.

The benefits of this research are, the theoretical benefits of this research are expected to develop knowledge about law enforcement regarding criminal acts of child fighting which result in death as well as factors inhibiting law enforcement against criminal acts of child fighting which result in death and the practical benefits are expected to be one of the reference sources and obtain answers to the problems being researched as well as input for the parties involved in future research.

There are several studies that are relevant to this research, namely, Putu Kayla Yunita Dewi, Anak Agung Sagung Laksmi Dewi, I Made Minggu Widyantara in the Journal of Legal Preferences in 2022 entitled Criminal Sanctions Against Perpetrators of Attacks That Cause Death, it can be concluded that criminal sanctions against perpetrators This beating which caused death (RULING NUMBER 399/PID.B/2020/PN DPS) clearly has legal provisions in accordance with existing regulations, defending oneself by taking the law into one's own hands is freely carried out arbitrarily without any feeling of guilt. Meanwhile, the beatings are also related to Article 170 of the Criminal Code.

B. Method

In terms of the focus of the study, the legal research carried out is included in the type of empirical research. Empirical Legal Research is legal research that attempts to see law in a real sense or can be said to see, examine how law works in society. The approaches used to answer problem formulations in legal research use several approaches. This approach includes a statutory approach, a conceptual approach and a historical approach.¹¹ What can be used as an object in research with a normative doctrinal approach is data in the form of primary materials and secondary legal materials as well as tertiary legal materials. This research was carried

¹¹ Syamsudin, M. (2007). *Operasionalisasi Penelitian Hukum*. Jakarta: Rajawali Pers.

out through library research, library research or normative research by simply reading or analyzing written materials. The technique for collecting legal materials that will be used in this research is through interviews and library research, namely techniques for collecting legal materials by searching, recording, taking inventory, studying books, literature, statutory regulations, results of previous research, and documentation related to the problem under study.¹²

C. Result & Discussion

A. Law Enforcement Against The Crime Of Child Fighting Which Resulted In Death At The Takalar Police Resort

Law enforcement efforts in criminal acts of fighting children which result in death at the Takalar Police Resort are usually taken or carried out using criminal law (penal) means or by using preventive (non-penal) approaches. However, crime in human life is a social phenomenon that will always be faced by every human being, society and even the country. Therefore, eliminating crimes such as the crime of fighting is a mere fantasy because in reality, crimes can only be prevented and reduced, but are difficult to eradicate completely.¹³ Law enforcement in eradicating criminal acts cannot be separated from crime prevention policies or what is commonly known as criminal politics. According to Sudarto, criminal politics is a rational effort by society to overcome crime. GP Hoefnagles explained that crime prevention policies or what is commonly known as criminal politics can be pursued by:¹⁴

- a. Application of criminal law (Criminal Law Application);
- b. Prevention without punishment (Prevention Without Punishment);
- c. Influencing society's views on crime and punishment through mass media (Influencing Views Of Society On Crime And

¹² Abdul Kadir, Muhammad. (2004). *Penelitian Hukum dan Hukum*. Bandung: Citra Aditya Bakti.

¹³ Silvia. 2020. The Influence and Handling of Cybercrime in Information Technology Development. <https://ejournal.uniks.ac.id/index.php/KODIFASI/article/download/945/640.m>. (accessed April 14, 2022).

¹⁴ G Peter Hoefnagels, *The Other Side of Criminology (An Inversion of the Concept of Crime)*, Publisher: Kluwer-Deventer, Holland, 1969, p. 57.

Punishment).Media (*Influencing Views Of Society On Crime And Punishment*).

Meanwhile, according to Baharuddin Lopa, law enforcement can be carried out by implementing preventive measures. According to Baharuddin Lopa, preventive steps include:¹⁵

- a) Increasing people's welfare to reduce unemployment, which in itself will reduce crime.
- b) Improve the administration and supervision system to prevent irregularities.
- c) Increasing legal education to equalize people's legal awareness.
- d) Adding police personnel and other law enforcement personnel to further increase repressive and preventive measures.
- e) Increase moral toughness and professionalism for law enforcement officers.

According to Ipda Saleh, the patterns of effort carried out by the Takalar Police Resort include:

a. Upaya Preventif

Preventive efforts are law enforcement efforts to prevent a crime from occurring. Preventive efforts are carried out through means outside criminal law.¹⁶ The preventive efforts carried out by the Takalar Police Resort include:

- 1) By providing education and outreach to the community, especially school children regarding the importance of avoiding all criminal acts of fighting.
- 2) Invite the public to coordinate if they see a criminal act of fighting committed by a child so that they immediately report it to the authorities.

¹⁵ Baharudin Lopa. 2001. Tindak Pidana Korupsi dan Penegakan Hukum. Jakarta. Kompas.

¹⁶ Handar Subhandi. 2015. Upaya Pencegahan Kejahatan. <http://handarsubhandi.blogspot.com/2015/08/usaha-penanggulangan-kejahatan.html?m=1>. (diakses 14 April 2022).

- 3) Conduct weekly follow-ups with the community, especially school children, in order to find out the extent of their knowledge regarding the prohibitions and negative impacts of criminal acts of fighting.
- 4) Disseminate information about the policies of the National Police leadership relating to security and public order to eradicate criminal acts of fighting involving children.
- 5) Mobilize positive community activities, especially school children, such as quiz competitions, August 17 competitions and so on.

It is hoped that these efforts will be effective, providing understanding to the public, especially school children, to be more alert and not get involved in criminal acts of fighting. Therefore, the Takalar Police Resort officers continue to make efforts to make parents more careful and sensitive towards their children's growth so that they do not get involved in crimes which are currently increasing.

b. Upaya Represif

Repressive efforts are carried out when a criminal act/crime has occurred whose action takes the form of law enforcement by imposing penalties. However, before carrying out law enforcement, the police will carry out an in-depth investigation of the case, such as examining evidence carefully so that they can properly determine whether this case is a single perpetrator or a structured crime because the alleged perpetrator is not just a victim, while the real perpetrator is free in the wild. out there, moreover this is related to criminal acts of fighting committed by children.¹⁷ If the root of the problem has been found, law enforcers, namely the police, prosecutors and courts, will work together to provide maximum sanctions and punishments in order to provide a deterrent effect for perpetrators due to their actions or consequences of actions that are detrimental to society. Because children are a very special gift from God Almighty for people who are married, therefore the government in Indonesia has implemented a separate law for children, namely Law Number 35 of 2014 concerning

¹⁷ A. Ashari. 2017. The Role of Evidence in the Criminal Case Process. *Al-Hikmah Journal* (01): 03

Amendments to Law Number 23 2002 concerning Child Protection, and the Convention on the Rights of the Child (KHA) at the United Nations as well as the Juvenile Justice System Law no. 11 of 2012. This is in line with the results of the interview that the author obtained, according to Inspector Ahmad Saleh at the Takalar Police Resort, when the police receive a report, it will be followed up with an investigation process and if there is sufficient evidence, it will be escalated to the fingerprint stage through a case title, during the fingerprint process. then a diversion effort will be carried out and if the diversion effort is unsuccessful then the case file will be completed and handed over to the Public Prosecutor for further processing.

B. Inhibition Of Law Enforcement Against The Crime Of Child Fighting Which Resulted In Death At The Takalar Police Resort.

Often in a policy, the goals to be achieved do not match expectations. So there is a need for measurement and monitoring to find out the extent of the success of the policy. One thing that can be done is to measure what factors prevent a policy from being implemented. This research uses the effectiveness theory put forward by Lawrence F. Friedman, where this theory explains that there are 3 factors that influence whether a policy is effective or not so that the author can find out what causes the obstruction of law enforcement regarding criminal acts of child fighting which resulted in deaths at the Takalar Police Resort. From the results of research conducted by the author, we will discuss how these three factors answer the second problem formulation.¹⁸ According to Lawrence F. Friedman, the important things to pay attention to in implementing legal effectiveness are the implementation of the three elements or components in the legal system or what are usually called the Three Elements of the Legal System, namely:¹⁹

- a. The structural components are, *“The structure of a system its skeletal framework; it is the permanent shape, the institutional body of the system,*

¹⁸ Kelsen, Hans. 2006. Teori Umum Hukum dan Negara. Nusa Media: Bandung.

¹⁹ Efendi. 2008. Efektivitas Kerja. Jakarta: Rineka Cipta.

the tough, rigid bones that keep the process following within bounds." (Structure is a part of the legal system that moves within a mechanism, related to law-making institutions, courts, investigations, and various bodies that are given the authority to implement and enforce the law.). The legal structure is referred to as a structural system that determines whether an action can be covered by the law or not, for example, the Takalar Police Resort as state security apparatus can ensure order and enforce the law fairly against perpetrators of criminal acts of fighting children which result in death. According to information from Inspector Ahmad Saleh, in enforcing the law regarding criminal acts of child fighting which resulted in death at the Takalar Police Resort, Takalar Police Resort investigators will use Law Number 35 of 2014 concerning Child Protection as a guideline. If a report comes in regarding a criminal act involving child fighting which results in death, we immediately handle the case, starting from asking for information from the victim/reporter, collecting evidence and reconstructing the incident. After that, if the information provided is deemed sufficient to prove that a criminal act has occurred, the Takalar Resort Police will resolve the matter in accordance with the provisions of the applicable criminal law.²⁰

However, unfortunately, Inspector Ahmad Saleh added that the number of personnel in the Takalar Police Resort PPA Unit was 14 (fourteen) people. Among them are 3 (three) PPA Unit personnel with the rank of Officer and as many as 9 (nine) personnel with the rank of Brigadier. From 14 (fourteen) personal people. The PPA Unit only has 3 (three) personnel who have a formal Bachelor's degree and there are 11 (eleven) personnel who are high school graduates, so it can be concluded that the Takalar Police Resort PPA Unit has more assistant investigators, namely 11 people compared to the investigators themselves, only 3 people. . Even though the entire PPA Resort Unit of the Takalar Police, both investigators and assistant investigators,

²⁰ Interview, May 12, 2022.

have taken part in education to develop the specialization of the criminal investigation function. The very limited number of personnel, only 14 (fourteen) investigative personnel, is not commensurate with the number of cases that must be handled each year. In fact, according to Inspector Ahmad Saleh, "from January 2022 to April 2022, the number of criminal cases involving child fighting resulting in death has reached 42 cases. It's not until the middle of the year but the number of criminal cases of child fighting resulting in death has already numbered dozens, not to mention other criminal cases involving the children themselves."²¹

Even though the number of cases has decreased every year, investigators at the Takalar Police Resort PPA Unit are still overwhelmed in handling these cases because they are not commensurate with the number of existing investigators. This is of course an obstacle and problem in the implementation of law enforcement regarding criminal acts of child fighting which resulted in deaths at the Takalar Police Resort.

- b. Legal substance, namely, "*composed of substantive rules and rules about how institution should be have.*" (Substance is the real rules, norms and patterns of human behavior within the system. Or it can be said to be a real result, a product produced, published by the legal system). According to Inspector Ahmad Saleh, the criminal threat for children that has been determined by the Criminal Code (*lex generalis*) and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (*lex specialist*) explains that for children the penalty is determined at $\frac{1}{2}$ of the maximum adult sentence, and for children there is no life imprisonment or death penalty. Apart from that, it also regulates the sanctions imposed which are determined based on age, namely, children aged 12 (twelve) to 18 years old can be

²¹ Interview, May 12, 2022.

sentenced to criminal penalties while those aged 8 to 12 years old will only be subject to action sanctions. Criminal sentences for defendants who are still in the juvenile category cannot be equated with adult defendants. The law mandates that in the process of resolving children who are in conflict with the law, they must prioritize the diversion process first as in Article 5 paragraph (3) and basically in imposing sanctions on children, the SPPA Law regulates prioritizing the restorative justice approach, which therefore Penalty is the final step that can be pursued (*ultimum remedium*).

c. Legal Culture, *“the legal culture, system-their beliefs, values, ideas, and expectation.”* (Legal culture is human attitudes towards the law and the legal system, their beliefs, values, thoughts and hopes). As Lawrence M. Friedman believes, legal culture can be defined as the pattern of knowledge, attitudes and behavior of a group of people towards a legal system. From these patterns, it can be seen the level of integration of the community with the relevant legal system. Simply put, this level of integration is characterized by their level of knowledge, acceptance, trust and dependence on the legal system. There are several legal cultural factors that become obstacles in law enforcement regarding criminal acts of child fighting which resulted in death at the Takalar Police Resort, including:

- 1) Lack of attention and affection from the family which results in children often seeking attention by getting involved in fights. Apart from that, lack of parental supervision makes children more likely to engage in aggressive behavior or criminal activity.
- 2) There are doctrines from the community and surrounding environment. The circumstances of a person's environment and social relationships can cause that person to naturally develop their characteristics and behavior in committing crimes. If someone is born from a harsh, indifferent and negative environment, it can be predicted that that

person will be shaped like what they find in the environment where they live.

- 3) A period of searching for identity or identity. According to Inspector Ahmad Saleh, usually children who are teenagers will look for their own identity by trying to explain who they are, what their role is in society, whether they are a child or an adult and whether they are able to compete in society. According to Inspector Ahmad Saleh, this search for identity influences the behavior of teenagers and one way to strengthen this identity is that they usually fight with the aim of proving to society that they are strong and able to adapt to the world.

D. Conclusion

Based on the description above, it can be concluded that various law enforcement efforts have been carried out by the Takalar Resort Police to prevent and eradicate criminal acts of child fighting which result in death, starting from preventive and repressive efforts and as for the causes of obstacles to law enforcement against criminal acts of child fighting which result in death in The Takalar Police Resort can be seen from three aspects, namely; structural components, legal substance and legal culture. In order for this to work as desired, the author advises parents, especially those who have teenage children, to pay more attention to the relationships and environment in which their children interact on a daily basis. Parents must control their children more, at least by maintaining worship and providing an understanding of religion to children from an early age and giving social boundaries to prevent children from committing evil acts. It is hoped that law enforcers, especially the Takalar Police Resort officers, must be more active in carrying out patrols and raids. In places that are prone to crime, the police and local government must carry out more frequent outreach in environments that are prone to brawls, especially outreach to children because children are very vulnerable to being drawn into bad associations.

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