

## Child Perpetrators of Motorbike Theft, Victims or Criminals

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**ABSTRACT:** Children cannot protect themselves, they must be assisted by other parties such as parents, family, community, state and government. Parents, as the first component of child protection efforts, have a central role in realising real child protection, so that children do not become victims of anyone's actions either directly or indirectly. Wishes do not always come true. In fact, there are children who feel unprotected and neglected, so they try to grow and develop in their own way. When the child is in a psychologically unstable position, and then supported by an unhelpful family and social environment, he or she can easily fall into deviant actions. Motorcycle theft committed by children is one of the crimes that occur in Indonesia, including in Kupang City, East Nusa Tenggara. The problem studied is why do children commit motorcycle theft and are they victims or criminals? This research is empirical research, the data used are primary, secondary and tertiary data. The results of the study, the causes of children stealing motorbikes are (1) Internal factors, namely not being able to reject friends' invitations (2) External factors, the influence of relationships and the social environment, lack of attention from parents, economic factors and educational factors. (3) From the point of view of the Law of the Republic of Indonesia Number 23 of 2002 as amended by Law Number 35 of 2014, children are only victims, while from the Criminal Code, children are criminals who deserve to be punished.

**KEYWORDS:** children, stealing, victims, criminals

### INTRODUCTION

The enactment of Law No. 23 of 2002 as amended by Law No. 35 of 2014 brings new nuances in terms of child protection. Children according to this law are treated as separate legal subjects. Every child will be able to assume responsibility as the next generation of the ideals of the nation's struggle, has a strategic role and has special characteristics and characteristics to ensure the continued existence of the nation and state in the future (Wiyono, 2016). In order for every child to assume this responsibility, he needs to have the widest possible opportunity to grow and develop optimally, both physically, mentally, and socially and have noble character, it is necessary to protect and realise the welfare of children by providing guarantees for the fulfilment of their rights and treatment without discrimination. The most important thing according to this law is that parents, society and the state are responsible for providing protection to children. Protection of children is an absolute right that must be given because it is a natural right. This right is part of human rights that must be guaranteed, protected and fulfilled by parents, families, communities, governments and the State. The rights of children as part of human rights have been regulated in several legal instruments. In Indonesia, instruments governing children's rights are found in the 1945 Constitution of the Republic of Indonesia, Law No. 4 of 1979 on Child Welfare, Presidential Decree No. 36 of 1990 on the Ratification of the Convention on the Rights of the Child. Indonesia as a state party, complies with what is stated in Article 4 which reads: "The State party shall take all legislative, administrative and other measures for the implementation of the recognised rights of the child". Subsequently, the Government issued Law No. 39/1999 on Human Rights. In 2001, the Government of Indonesia expressed its commitment to the declaration of A World Fit for Children and therefore issued Law No. 23 of 2002 as amended by Law No. 35 of 2014 on Child Protection. The amendment is to emphasise the importance of aggravating criminal sanctions and fines for perpetrators of crimes against children to provide a deterrent effect, as well as to encourage concrete steps to restore physically, psychologically and socially children as victims and / or children as perpetrators of crime as an anticipatory step so that children as victims or perpetrators, do not become perpetrators of the same crime in the future. Ridwan Mansur revealed that the government issued Law No. 11/2012 on the Child Criminal Justice System, all of which equally stated the general principles of child protection, namely non-discrimination in the best interests of the child, survival and growth and development and respect for child participation (Ariani, 2014).

Although there are a number of legal instruments protecting children, the reality in society is that many children are denied their rights. For children whose rights are not fulfilled, they often try to get them by helping to ease the burden on their parents. Only sometimes in their efforts do they commit criminal offences (Bessie, 2017). Data from the Directorate General of Corrections,

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Ministry of Law and Human Rights, shows an increasing trend in the period 2020 to 2023. On 26 August 2023, there were nearly 2,000 children in conflict with the law. A total of 1,467 of them were detained and still undergoing the judicial process, while 526 children were serving sentences as prisoners. Children serving time in detention are placed in various correctional facilities. Currently, 1190 juvenile detainees are housed in the Juvenile Special Development Centre. They are also housed in 234 correctional centres,

53 state detention centres, and 7 women's correctional centres. The year 2023 still has four months left until the end of the year, meaning that the figure is likely to still move up. When compared to data from three years ago, the number of children caught up in the law has never broken the 2,000 mark. Looking at the situation in 2020 and 2021, the number of children tripping over legal cases was 1,700. Then it increased the following year to 1800 children. The increasing trend is an alarm that Indonesian children are not doing well and tend to lead to problematic conditions. Referring to Law Number 11 of 2012 concerning the Child Criminal Justice System, the age group classified as children in the realm of legal cases is 12-17 years old. Then the category of children who intersect with the legal process is divided into two types, namely children dealing with the law and children in conflict with the law (Krisdamarjati, 2023).

Referring to the same legislation, Article 1 Paragraph 2 states that "Children in conflict with the law are children in conflict with the law, children who are victims of criminal offences, and children who are witnesses to criminal offences." Meanwhile, Paragraph 3 of the same article explains that a child in conflict with the law is a child suspected of committing a criminal offence. Motorcycle theft is a criminal offence committed by a child in the jurisdiction of the East Nusa Tenggara Regional Police of Kupang City Resort.

**Table 1. Number of motorcycle theft cases in 2019-2022.**

No.	Year	Number of cases	Description
1	2019	2	resolved through diversion
2	2020	9	6 cases resolved through diversion, 3 court decisions
3	2021	2	P.21 (P-21 is a form code used in the process of and resolving criminal offence cases as a notification that the results of the investigation are complete. This means that the case is ready to be submitted to the Prosecutor's Office)
4	2022	1	still in the investigation stage
Total		14	

The provisions on child protection stipulated in Law No. 23/2002 as amended by Law No. 35/2014 show the government's desire to provide optimal protection to children. This is deemed necessary to anticipate that children as victims and/or perpetrators of crimes will not become perpetrators of the same crimes in the future. The amendment of this provision is intended to increase criminal sanctions and fines for perpetrators of crimes against children, provide a deterrent effect, and encourage concrete steps to restore the physical, psychological and social well-being of children as victims and/or perpetrators of crimes. However, in fact, based on the data presented above, crimes committed by children continue to occur from year to year.

Regarding the state of the art. Previously, there had been research with the theme of the crime of motorcycle theft which was studied from various perspectives, for example, the investigation of children involved in committing the crime of theft of motorised vehicles (case study of POLRESTABES Palembang) with the focus of his research being the investigation and matters that become obstacles in the investigation of children involved (Irawan, 2020). Overcoming the crime of motor vehicle theft in the jurisdiction of Minas POLSEK Siak Regency with the focus of research on the factors that cause offenders to commit motor vehicle theft crimes (Sihotang, 2021) and criminological reviews of motor vehicle theft committed by minors (Case study at Gorontalo City Police Station) with a research focus on the factors that cause children to steal motor vehicles in the jurisdiction of Gorontalo City (Yusuf, 2018). This research study complements previous studies on motorcycle theft by children from a different perspective by raising the problem (a) What factors encourage children to commit motorcycle theft? (b) Are children who commit motorcycle theft victims or criminals? The purpose of this study is to find and examine the various causes of children committing motorcycle theft. To examine the position of children who steal motorcycles, whether as victims or criminals.

## METHOD

Research methods are important for a researcher, the method chosen is closely related to the procedures, tools, and research design used (Nazir, 2005). This paper uses empirical legal research methods. Empirical legal research is a type of legal research that analyses and examines the operation of law in society (Salim and Nurbani, 2013).

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There are three approaches that the author uses based on Muhaimin's opinion that the minimum approach that must exist in all types of research is a conceptual approach, a statutory approach, because there is no research that does not start from the concept or understanding and the applicable laws and regulations as the legal basis. And the legal psychology approach is an approach in empirical legal research, where the law is seen in the human psyche. Human psychology certainly concerns compliance and public awareness of the law, such as people committing acts that violate the law (Muhaimin, 2020).

So that the approach used is:

- a. Conceptual approach, using this approach so that after understanding the concepts of children, criminals and victims, it is hoped that there will be no vague or ambiguous understanding.
- b. Statute approach is used in relation to the position of children as perpetrators of motorcycle theft. The laws and regulations studied in this research are the Child Protection Law and the Criminal Code (Law No. 73 of 1958 on the Enactment of Law of the Republic of Indonesia No. 1 of 1946 concerning Criminal Law Regulations for the Entire Territory of the Republic of Indonesia. The author uses this Criminal Code because Law Number 1 of 2023 concerning the Criminal Code, will only take effect on 1 January 2026).
- c. The legal psychology approach is used to examine why children commit the crime of motorcycle theft.

## RESULTS AND DISCUSSION

### *The concept of the child in expert opinion and in various laws and regulations*

#### *Expert Opinion*

- a. According to developmental psychologist Jean Piaget, children are individuals who are in a rapid and complex stage of cognitive, social, and emotional development, from infancy to adolescence. (Marinda, 2020);
- b. According to anthropologist Clifford Geertz, children are individuals who are still in the stage of social and cultural identity formation, which is influenced by the environment and society around them (Geertz, 1992);
- c. Juridically, a child is commonly defined as a person who is not yet an adult (*minderjaring* or person under age), a person who is underage or underage (*minderjaringheid* or inferiority) or often also referred to as a child under the supervision of a guardian (*minderjarige onvervoodij*) (Koesnoen, 2005);
- d. Children according to education experts are immature humans, who need to be educated by an educator (by adults) through education, often also called the term student, because it shows an immature human being, who will be guided by the educator to lead to maturity (Herawati, 2012).

#### *Legislation*

- a. According to Law Number 4 Year 1979 on Child Welfare, a child is someone who has not reached the age of 21 years and has never been married;
- b. According to the Convention on the Rights of the Child: a child is any human being under the age of 18 years unless the law applicable to the child provides that the age of majority is attained earlier;
- c. According to Law No. 39/1999 on Human Rights, a child is any human being under the age of 18 and unmarried, including children still in the womb if it is in their best interest;
- d. According to Law No. 23/2002 on Child Protection, a child is someone who is not yet 18 years old, including children in the womb;
- e. According to Law No. 11/2012 on the Juvenile Justice System, a child in conflict with the law is a child who is 12 (twelve) years old, but not yet 18 (eighteen) years old who is suspected of committing a criminal offence;
- f. Law Number 1 Year 2023 on the Criminal Code Article 150, a child is someone Who is not yet 18 (eighteen) years old.

From various concepts of "child" both according to experts and legislation, the author argues that children are individuals who are still in a period of growth and development both physically, cognitively, socially, emotionally, and legally who have not reached the age of 18 years, requiring special attention to ensure their welfare.

#### *Concept of Victim*

Arif Gosita in Maidin Gultom Victims are those who suffer losses (mental, physical, social) due to passive or active actions of other people or groups (private, government) either directly or indirectly (Gultom, 2006).

Victims are also defined by Van Boven in reference to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power as follows: Persons who individually or in groups have suffered loss, including physical or mental injury, suffering, emotional, economic loss or actual deprivation of their fundamental rights either by act or by omission... (Yulia, 2009).

The definition of victim can be broadly defined by the South Carolina Governor's Office of Executive Policy and Programs Columbia, namely: Victim means a person who suffers direct or threatened physical, psychological, or financial harm as the result of a crime against him. Victim also includes the person's deceased, a minor, incompetent was a homicide victim and/or is physically or pysicsologically incapacitated. Broadly speaking, the definition of victims is not just victims who suffer directly, but indirect victims also experience suffering that can be classified as victims (Soeharto, 2007).

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Law No. 13/2006 on Witness and Victim Protection in Article 1 Point 2 states that a victim is a person who suffers physical, mental, and/or economic loss as a result of a criminal offence. According to Article 149 of Law Number 1 Year 2023 on the Criminal Code, a victim is a person who experiences physical and mental suffering and/or economic loss caused by a criminal offence.

### The Concept of the Criminal.

In the Big Indonesian Dictionary, the word "evil" means very bad, bad, very bad (behaviour, character, actions). The word "criminal" is defined as a person who is evil (Department of National Education, 2014). If examined, the articles of the Criminal Code do not contain the term "criminal" even though they mention crimes. So, when mentioning criminals, it is only a translation of the word "Criminal" (Simanjuntak, 1985). Crime is defined as behaviour that is contrary to the prevailing values, norms that have been legalised by written law (criminal law).

### Concept of Crime

Crime as a social problem seems not only a problem for a particular society (national), but also a problem faced by all societies in the world, it has become an international phenomenon or according to *Sciichiro Ono's* term is a universal phenomenon (Department of Economic and Social Affairs, 1971). Fear of crime has now been elevated into a national problem (Box, 1983).

In order to avoid an ambiguous understanding of crime, the author puts forward various concepts. The word "crime" according to the Big Indonesian Dictionary is an evil act, an evil nature, behaviour that is contrary to the prevailing values and norms that have been approved by written law (Department of National Education, 2014).

W. A. Bonger, argues that crime is a very anti-social act that gets a conscious challenge from the state in the form of giving suffering, namely punishment or action (Koesnoen, 1977).

Crime is a human action that violates or contradicts what is determined in the rules of law, strictly speaking, actions that violate the prohibitions set out in the rules of law, and do not fulfil or fight the orders that have been determined in the rules of law that apply in the community where the person concerned resides (Widiyanti and Waskita, 1987).

Looking at the sociological aspect of the definition of crime can be seen from the opinion of R. Soesilo, "crime is covering all human behaviour even though it is not determined by law, but by members of the community it is felt or interpreted as behaviour or actions that economically or psychologically attack and injure moral feelings in common life (Muliadi, 2012).

Crime is behaviour that violates laws and social norms so that society opposes it (Kartono, 2003). Michael and Adler observed that "the most precise and least ambiguous definition of crime is that which defines it as behaviour which is prohibited by the criminal code" and, further, that "this is the only possible definition of crime" (Quinney, 1979).

The author argues that crimes are human actions, which are violations of norms or rules that are harmful, disturbing, so they should not be tolerated. Crime always refers to prohibited, bad actions, all of which have been listed in the applicable laws and regulations, in customs, and customs.

### Theories of the Causes of Crime

#### Socialist Theory

Socialist theory suggests that crime arises because of unbalanced economic pressures in society. This theory illustrates that to fight crime, economic improvements must be made. Prosperity, balance and social justice will reduce the occurrence of crime.

Sociogenic theory, this theory explains that the cause of evil behaviour is purely sociological or socio-psychological is the influence of deviative social structures, group pressure, social roles, social status, or wrong symbolic internalisation. Evil behaviour is shaped by a bad and evil environment, unattractive school conditions and associations that are not directed by moral and religious values. This theory reveals that the causes of crime are influenced by environmental factors, including family, economic, social, cultural, defence and security, and technological inventions. This theory directs us that people have a tendency to commit crimes because of the process of imitating their surroundings or better known as the imitation process (Utami, 2012).

#### Environmental Theory

According to this theory, a person commits a crime because he or she is influenced by the surrounding factors or environment, including family, economic, social, cultural, defence and security, as well as technological discoveries. The entry of foreign goods such as television, books and films with various kinds of billboards as promotion, also determines the high-low crime rate (Darma, 1996). The environment in which a person grows up can also influence their potential to become involved in crime. An environment exposed to violence, conflict, or association with criminals can influence a person's behaviour and increase their risk of becoming part of crime (Munawar, 2023).

#### The Crime of Theft

In the Criminal Code, the offence of theft is regulated in Article 362 which reads, "Whoever takes property, wholly or partially belonging to another, with intent to unlawfully possess it, shall, being guilty of theft, be punished by a maximum imprisonment of five years or a maximum fine of nine hundred rupiahs." Meanwhile, in the new Criminal Code that will come into

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force in 2026, Law No. 1 of 2023, Article 476 is formulated as "Every person who takes any property which partly or wholly belongs to another, with intent to unlawfully possess it, shall be punished for theft, by a maximum imprisonment of 5 (five) years or a maximum fine of category V (Five)." (Article 476).

In Article 79 paragraph (1), the maximum fine is determined based on: a. category I, Rp1,000,000.00 (one million rupiah); b. category II, Rp10,000,000.00 (ten million rupiah); c. category III, Rp50,000,000.00 (fifty million rupiah); d. category IV, Rp200,000,000.00 (two hundred million rupiah); e. category V, Rp500,000,000.00 (five hundred million rupiah); f. category VI, Rp2,000,000,000.00 (two billion rupiah); g. category VII, Rp5,000,000,000.00 (five billion rupiah); and h. category VIII, Rp50,000,000,000.00 (fifty billion rupiah).

### **Causes Of Children Stealing Motorbikes**

#### ***Internal Factors***

According to the Kamus Besar Bahasa Indonesia, the word "internal" means something that concerns the inside. Internal here can be the inside of the self, body, ... (Department of National Education, 2014). In relation to children as perpetrators of motorcycle theft, based on the results of the research, the perpetrators were unable to refuse friends' invitations to steal. Smita Dinakaramani uses the term "people pleaser" for those who are unable to resist invitations. People pleaser is an informal labelling for individuals who have a strong desire to please others. People pleaser basically helps with the motive to please others even if it is to their own detriment. That is the difference with people who really want to help who can map their capacity in providing assistance. Smita mentioned that there are several characteristics that reflect people pleaser. The characteristic of a people pleaser is prioritising other people's interests and feelings over their own. In fact, if it is detrimental to himself, it does not matter to him. Besides, he allows himself to be used by others. Then, it is easy or frequent to apologise because it is full of guilt or fear of being blamed. People pleaser avoids conflict with others. To avoid conflict that is seen as a difference makes people pleaser try to equalise their opinions with others. (Ekaptiningrum, 2023).

#### ***External Factors***

##### ***The Influence of Associations and the Environment***

The good and bad behaviour of a person is greatly influenced by the association and the surrounding environment. Children as someone who has not been able to filter which actions are good and which actions are bad often follow what the people around them do. The influence of relationships and the community environment can encourage a child to commit a criminal offence. The results showed that children who in their relationships want to look cool, are seen as capable and want to show their prowess will do anything so that their wishes are achieved. Children who commit criminal offences of motorcycle theft are children who are members of motorcycle gangs who often gather on the side of the road at night. Because of the invitation of friends or stories of friends who obtained new motorbikes by stealing. The purpose of stealing is to look cool, obtain spare parts from the stolen motorbike, and participate in wild races. Not all children who steal motorbikes come from poor families and cannot buy motorbikes. The children involved also come from well-off families, where their parents' jobs are clear and their income is sufficient to fulfil their children's needs. However, their social circle is not conducive to their involvement in motorcycle theft.

##### ***Lack of Attention from Parents***

Parents have the power of custody over their children. The power of custody is the power of parents to nurture, educate, maintain, foster, protect, and develop children in accordance with their religion and their abilities, talents, and interests. According to Law No. 23 of 2002 amended by Law No. 35 of 2014 on Child Protection, Article 1 point 11 and Article 1 point 4, what is meant by parents are biological fathers and/or mothers, or stepfathers and/or mothers, or adoptive fathers and/or mothers. Parents play a role in ensuring that their children are healthy and safe, providing facilities and infrastructure to develop abilities as provisions for social life, and as a medium for instilling social and cultural values as early as possible. The relationship between parents and children is very important for building trust in oneself and others. It can also help social, emotional, and cognitive development in children. A warm, open, and communicative relationship between parents and children that conveys the reasons for things that children should not do, will increase self-confidence and performance in school and society. In addition, children will avoid negative things such as depression and drug use (Faculty of Medicine. Public Health and Nursing, 2023). The research facts show that the relationship between the perpetrators and their parents is not harmonious, so whatever they do, they believe their parents don't care. Parents found out that they had committed the criminal offence of stealing a motorbike after being contacted by the police, and the reaction from parents was different. Some were surprised, but others did not react or took it for granted.

##### ***Economic Factors***

The urge to fulfil the family's economic needs in order to live well causes parents to be busy working. This is certainly not wrong because the right to work is regulated in the 1945 Constitution of the Republic of Indonesia, Article 27 paragraph 2 reads: "Every citizen has the right to a job and a livelihood worthy of humanity." Working is a constitutional right of parents, but sometimes it becomes an excuse to neglect the responsibility of caring for, educating, maintaining, fostering, protecting, and developing children in accordance with their religion, as well as developing and their abilities, talents, and interests. Socialist



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theorists argue that crime arises because of economic pressure. This statement is proven that the economic relationship with theft has always been a frequent reason for perpetrators to commit criminal offences. Children steal motorbikes because they cannot afford to buy their own motorbike. On the other hand, they want to look elegant, with a good motorbike. It is this imbalance between desire and ability that makes children commit theft in order to achieve what they want.

### *Education Factors*

Law Number 20 of 2003 concerning the National Education System, Article 1 number 1 reads: "Education is a conscious and planned effort to create a learning atmosphere and learning process so that students actively develop their potential to have religious spiritual strength, self-control, personality, intelligence, noble character, and skills needed by themselves, society, nation and state".

In relation to this research, education means school. School is a place for students to carry out the learning process with the aim of gaining knowledge and having an understanding of something that makes him a critical and creative human being. School is a place to study and where good things are taught, because apart from at home, a child also spends a lot of time at school. The problem is that students do not see school as a place that is conducive to developing to be smart. Whereas adequate formal education makes a person able to act wisely and make good decisions. Having a low education is one of the factors driving a person to commit a criminal offence. Sociogenic theorists argue that unattractive school conditions and associations that are not directed by moral and religious values can influence children to commit deviant acts. The results of the study show that children who steal motorbikes are school dropouts, students at Vocational High Schools, and children who often skip school.

### **Methods and tools used to commit motorbike theft**

#### *Stealing a motorbike because the rider left the key behind.*

The perpetrator did not pre-plan the location or time. He stole because the parked motorbike still had the key. According to the author, this kind of offender is called a situational offender, who commits crimes due to certain situational factors, taking advantage of opportunities.

#### *Hacking Electronic Lock Systems*

Some motorbikes are equipped with electronic lock systems, such as transponder keys or remote controls. A child with sufficient technical knowledge and skills can hack into these systems. They use an electronic device called a "programmer" to clone the key or reprogram the electronic lock system so that the motorcycle can be started without the original key. By successfully hacking the security system, they can start the motorbike. The results showed that the perpetrators were school dropouts (only completed junior high school).

#### *Using the Bumping Technique*

Bumping technique is a method of using a fake key that matches the type of lock used on the motorbike. The perpetrator prepares a bumping key that matches the type of lock you want to open. The perpetrator inserts the bumping key into the motorbike lock until it is full, then turns the bumping key quickly so that the lock can be opened.

### **Motorbike Theft by Child Victim or Criminal**

#### *Perspective of Law Number 23 of 2002 as amended by Law Number 35 of 2014 concerning Child Protection*

The child is a mandate as well as a gift from God Almighty, which must always be safeguarded because in him or her inherent dignity and rights as a human being that must be upheld. In terms of the life of the nation and state, children are the future of the nation and the next generation of the nation's ideals, so that every child has the right to survival, growth, and development, participation and the right to protection from violence and discrimination as well as civil rights and freedoms. Children should be protected so that they do not become victims of anyone's actions (whether individuals, groups, private or government organisations) either directly or indirectly (Gosita, 1989).

Listening to the author's description of the causes of children stealing motorbikes, namely the perpetrator is unable to refuse the invitation of friends, the influence of association and environment, lack of attention from parents, economic factors and education. Of these five causes, it seems that there is no most dominant cause. Children steal because they become people pleasers, economic factors that cause various problems in the family, such as lack of parental attention because they are busy working, not fulfilling family needs optimally, and their social environment. Of course this is understandable, but on the other hand children steal because they are trapped in a social environment that requires them to exist and be accepted in all circles so that they then change their lifestyle, are curious and try to enjoy various things, even though psychologically they are not ready. Seeing this fact, children who commit motorcycle theft are not criminals, children are only victims of a family environment, social conditions, psychological conditions, which plunge them into criminals.

#### *Perspective of the Criminal Code*

If the discussion of children committing motorcycle theft from the perspective of the Child Protection Law is a victim, then the discussion from the perspective of the Criminal Code is not. According to the author, children are still criminals who must be punished. Considering that the methods and tools used to commit crimes are not only conventional but modern, this condition should not be allowed. Children must be responsible for their actions that have harmed others.

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Theft is one of the crimes against individual interests which is a crime against objects/wealth. This is contained in Chapter XXII Articles 362-367 of the Criminal Code with a prison sentence of between 5 and 12 years, specifically Article 364 is punishable by life imprisonment, death penalty. In the new Criminal Code that will come into force in 2026, Law Number 1 Year 2023 regulates in Chapter XXIV Articles 476-481 with a prison sentence of between 5 and 20 years, specifically article 479 is punishable by life imprisonment, death penalty.

### *Child Responsibility as a Perpetrator of the Crime of Motorcycle Theft.*

Children's accountability and criminal sanctions have become an interesting topic to discuss, considering that in Indonesia there is Law No. 11/2012 on the Juvenile Criminal Justice System. The juvenile criminal justice system is the entire process of resolving cases of children in conflict with the law from the investigation stage to the guidance stage after undergoing a criminal process based on protection, justice, non-discrimination, the best interests of the child, respect for the child, survival and growth of the child, proportionality, deprivation of independence and punishment as a last resort and avoidance of retribution. In the criminal justice system, a child in conflict with the law is a child who is 12 years old but not yet 18 years old who is suspected of committing a criminal offence.

In the event that a criminal offence is committed by a child before the age of 18 years and is brought before the court after the child has passed the age of 18 years but has not yet reached the age of 21 years, the child shall still be brought before the juvenile court (see Article 20). The results showed that the child perpetrators of motorbike theft were between 15 and 16 years old. Examination of children who are submitted as children in conflict with the law at the level of investigation, prosecution and examination of children's cases in court must be pursued diversion (Diversion is the transfer of the settlement of children's cases from the criminal justice process to the process outside the criminal justice. Diversion aims to: a. achieve peace between the victim and the child; b. resolve the child's case outside the judicial process; c. prevent the child from deprivation of independence; d. encourage the community to participate; and e. instil a sense of responsibility in the child) in order to realise restorative justice (restorative justice is the settlement of criminal cases by involving perpetrators, victims, families of perpetrators/victims, and other related parties to jointly seek a fair solution by emphasising restoration to the original state, and not retaliation). Sentencing of children in conflict with the law may be subject to criminal offences and measures based on the provisions of this law.

Children in conflict with the law who are not yet 14 years old can only be subjected to non- criminal measures, which include return to parents, handover to someone, treatment in a mental hospital, and treatment in a Social Welfare Institution, obligation to attend formal education and / or training held by the government or private bodies, and revocation of driving licences, and correction of the consequences of the criminal act. Meanwhile, children who are 14 years old and above can be sentenced with various punishments (see Article 71), namely:

1. Main punishment consists of a. warning punishment b. conditional punishment (coaching in institutions, community service, supervision) c. vocational training; d. coaching in institutions and imprisonment;
2. Additional punishment in the form of confiscation of profits obtained from criminal offences, fulfilment of customary obligations.

If under the material law a child in conflict with the law is subject to cumulative punishment in the form of imprisonment and fine, then the fine shall be replaced by vocational training for a minimum of 3 months and a maximum of 1 year. The punishment of restriction of freedom imposed on a child is at most ½ of the maximum imprisonment imposed on an adult (See Article 79). The results showed that children who commit the crime of motorcycle theft who have been sentenced to imprisonment, serve their sentence at the Special Development Institute for Children Klas I Kupang.

## CONCLUSION

The government enacts a number of regulations to protect children and fulfil their welfare needs. Even for children who commit criminal offences, a criminal justice system is used that emphasises the best interests of the child. The best interests of the child are the responsibility of the parents, family, community, state/government. If children's interests (rights) are not fulfilled and the urge to fulfil needs is getting stronger, it will trigger children to look for ways to fulfil them. In an unstable condition, he/she chooses a method that is considered easy and does not consider the risks of his/her decision. The causes of children committing criminal offences of motorcycle theft can come from themselves and from outside themselves. Parents and families can make awareness efforts by continuing to equip children with moral and religious foundations; by building effective communication, children can undoubtedly be made aware that what they are doing violates religious norms, and social norms in society. For children who are still in school, parents can build co- operation with their teachers to monitor their child's development and educational progress. The state/government can help by re-enforcing ethics subjects, providing facilities/ infrastructure in order to accommodate children's activities and creativity. Thus we can provide quality future leaders. Otherwise, the criminals of the next 10-15 years will have been raised today.

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