

ASSESSING THE VIEW OF CRIMINOLOGY SCIENCE IN SENIORITY VIOLENCE CASES

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Abstract

Seniority is one of the acts that often occurs in Indonesia, which until now can still be seen clearly in the world of Indonesian education system. Seniority is also a polemic which is quite difficult to find a solution to. The case of seniority itself occurs from the junior high school, high school level, to the lecture level. The types of seniority violence also vary, from verbal abuse to physical violence. The consequences arising from the act of seniority also vary, from physical injury to trauma, even to death. At the junior and senior high school levels, cases of seniority violence often appear during the Student orientation period. The school holds an orientation period at the beginning of the school year with the aim of showing students about the world of education and the new school atmosphere, so that students are expected to adapt to their new environment. But unfortunately, sometimes activities whose initial purpose is to make students adapt and recognize their new environment, it often causes havoc for new students. In July 2019, the Basic Activity of Physical and Mental Coaching (Madabintal) held by the semi-military school for Indonesian Cadets in Palembang as part of the MPLS activities resulted in 2 fatalities due to seniority violence. The existence of a culture of seniority on the grounds of mentally training students cannot be justified, because the violence of seniority can actually damage a person's mentality and make him lack self-confidence.

Keywords: Seniority, violence, education.

A. Introduction

A.1. Background

Seniority is a term that is quite commonly known by people. This term refers to the school level of students who are primarily in senior secondary schools. Although it is common to have levels in the education system, there are many people who condemn the existence of seniority. Violence among students in Indonesia is a very worrying phenomenon.

The word 'senior' in KBBI has a more mature meaning in terms of experience and abilities; it also means being in the last grade in the SMP / SMU class. From this understanding, it can be concluded that a senior who is in the last grade of high school is expected to become a role model and nurture his juniors.

In fact, holding senior status created a sense of superiority in late-level students. Data from the KPAI (Indonesian Child Protection Commission) in 2019 stated that physical violence and bullying occurred mostly at the SMA / SMK / MA education level with a percentage of 39%, with a percentage of perpetrators of violence committed by fellow students 30%.¹ Violence from seniors against juniors includes direct violence and indirect violence that attacks physically and psychologically. Direct violence refers to actions that attack a person physically or psychologically; meanwhile, indirect violence is in the form of actions that endanger and sometimes threaten death, but it does not involve a direct relationship between the victim and other parties responsible for the violence.

Regarding violence that still occurs in the school environment and is committed between students, Chairman of the Board of Trustees of the Indonesian Child Protection Agency (LPAI, *ex .: Komnas PA*) Seto Mulyadi stated that this shows that the education proclaimed by the government has not been successful, even though it is known that regulations have been issued to prevent it. this is through Permendikbud Number 85 of 2015 concerning Prevention and Overcoming of Violence in the Education Unit Environment.

Violence cases are often encountered during the Student Orientation Period (MOS), where the culture of seniority is considered normal, followed by bullying or bullying from seniors towards juniors or new students. This is certainly sad considering that new students who are in the process of adapting to a new environment even get physical and mental pressure in the first weeks of school, then there is a desire to take revenge later when they become seniors so that seniority becomes a hereditary culture. in schools.

The Student Orientation Period is indeed a hereditary activity that aims to introduce activities at the school, including the introduction of the school's vision and mission, school facilities, rules of conduct, to extracurricular activities with the aim that students can develop their potential and make achievements. Seniority violence that occurs in MOS activities usually under the guise of applying discipline, by taking advantage of the fear that new students as underclassmen have towards their seniors, as well as the lack of supervision from the teacher when this activity takes place.

Due to the large number of cases of violence that occurred during the Student Orientation Period, the Ministry of Education and Culture of the Republic of Indonesia issued a new regulation, namely Permendikbud No. 18 of 2016 concerning the Introduction of the School Environment to change the name of the Student Orientation Period (MOS) to the School Environment Introduction Period (MPLS), in order to create more conducive conditions.

¹ Miechell Octovy Koagouw, "KPAI: Sepanjang 2019, 153 Aduan Kasus Kekerasan di Sekolah", <https://rri.co.id/nasional/peristiwa/765103/kpai-sepanjang-2019-153-aduan-kasus-kekerasan-di-sekolah> (diakses pada 21 Maret 2021).

The new regulation prohibits activities previously commonly carried out in MOS, namely:

- 1) Requiring new students to bring a product with a certain brand;
- 2) Providing non-educational punishments to new students, such as sprinkling water and punishment that is physical and / or leads to acts of violence;
- 3) Spend food and drinks that do not belong to each new student;
- 4) Counting something useless (counting rice, sugar, ants, etc.);
- 5) Giving unreasonable tasks such as talking to animals or plants and bringing goods that are no longer produced;
- 6) Making seniors as coaches; and
- 7) Other activities that are not relevant to learning activities.

The new MPLS regulations are considered in line with the original MPLS objectives, some of which are for students to recognize their potential, help adapt to the school environment and its surroundings, and develop positive interactions between students and other school members.² Apart from being expected, MPLS will not be a fear for new students, also so that in the future there will be no more casualties during the MPLS period, and it will not cause physical or psychological trauma to students who undergo MPLS.

The new regulations regarding the MPLS and sanctions for violations need to be emphasized especially for semi-military schools, because seen from the reports of cases of seniority violence to the latest, the worst came from semi-military schools. Violence in the form of persecution that occurred not only from seniors, but also by activity supervisors.

As happened in July 2019, the Basic Period of Physical and Mental Development (Madabintal) activities held by the semi-military school of the Indonesian Taruna High School in Palembang as part of the MPLS activities resulted in 2 victims. The intention to be too tough, accompanied by emotion for a moment when facing new students, made seniors and activity coaches carry out beatings and beatings that led to death.

Therefore, although the semi-military school environment educates its students in a harder way to build up the physical and mental strength of the next generation of potential leaders compared to other level institutions, this cannot be a justification for committing violence especially until the persecution is good in the context of The Introduction to the School Environment and in the learning process.

B. **Problem**

Implementing the School Environment Introduction Period, an MPLS activity is held by the Indonesian Taruna High School in Palembang on July 13, 2019, which resulted in casualties.

² Mengacu pada Permendikbud Nomor 18 Tahun 2016.

The activity which the school calls the Basic Period of Physical and Mental Development (Madabintal) is expected to be a moment to introduce school culture that emphasizes physical training of students considering that this school is a semi-military school, when traced further it turns out that there are no reports of organizing this activity as part of the event. MPLS to the South Sumatra Education Office.³

It was Anggar bin Antoni (17), as a senior who was suspected of assaulting victim Wiko Jerianda (16) to death. The perpetrator who was involved in the activities of Madabintal as Platoon Commander (Danton) II⁴, stabbed five blows to the victim's stomach with his bare hands. The blow was thrown because the victim could not follow the perpetrator's instructions to make a rope knot and that made the perpetrator become angry. As a result of the beating, the victim suffered from intestine condition twisted and finally died on Friday, 19 July 2019.

The perpetrator was threatened with Article 76 and Article 80 of Law Number 35 of 2014 concerning Abuse of Minors with the threat of a sentence of 15 years in prison, but ended up with the perpetrator not detained because he is still a student and a minor. In addition, during an investigation the perpetrator is considered cooperative and always fulfills the investigator's summons. The victim's family finally filed a civil suit against the school and foundation to ask for accountability.

C. Analysis

C. 1. Criminal Theories

C.1.1. Violence

Etymologically, violence is a word/noun that means power. Certain people or institutions that have power will usually apply the rules or regulations that must be followed by the people under their control. Not infrequently, people or institutions that have the power to act tend to be authoritarian and impose their will on those under their control. As a result, such authoritarian and coercive actions will bring harm to others. So, if the two words, namely violence and power are connected, it can be said that violence is often carried out by individuals and groups who have more power or those who feel they have 'power' over others.

³ Else, "Disdik: SMA Taruna Palembang Tidak Jujur Soal MOS", <https://www.gatra.com/detail/news/430618/milenial/disdik--sma-taruna-palembang-tak-jujur-soal-mos> (diakses pada 29 Maret 2021).

⁴ Aji YK Putra, "Jadi Tersangka, Senior Siswa SMA Taruna Indonesia yang Pukul Junior Tak Ditahan", <https://amp.kompas.com/regional/read/2019/08/08/19255041/jadi-tersangka-senior-siswa-sma-taruna-indonesia-yang-pukul-junior-tak> (diakses pada 29 Maret 2021).

Violence is an unpleasant act that can involve physical or psychological or psychological actions by one party to another.⁵ According to KBBI, violence is an act of a person or group of people causing injury or death of another person or causing physical damage or other people's property.⁶

The causes of violence described by Bandura include:⁷

a. Instinct Theory

This theory explains that the violence stems from the nature of human biological impulse to spoil.

b. Drive Theory

holds that violence is caused by the human external conditions (eg, frustration, loss of face or shame) that makes one strong motive intended to hurt anyone else.

c. Social Learning Theory

This theory explains that violence occurs because of the learning process from the social environment. According to Bandura, learning occurs because of *imitation*. The ability to imitate the responses of others is a major cause of learning. People can acquire new patterns of behavior through observing others. To explain Bandura's theory, Cooley in Kamanto's book explains that a person's self-concept develops through his interactions with other people. This interaction is called *looking ± glass self*. This name was given by him because he saw the analogy between the formation of a person and the behavior of those who reflect; if a mirror reflects what is in front of it, then according to Cooley a person reflects what he feels in response to himself.⁸

Then there is the theory of punishment which can be another factor of violence, which is divided into two groups of theories, they are called the absolute theory and the relative theory. However, in its development, a third theory emerged which was a combination of the two theories above, which is known as the combined theory. So in general, the theory of punishment is divided into three groups of theories, namely:

1. Absolute Theory or Theory of Retaliation (*Vergeldings Theorien*)

According to this theory, punishment is imposed solely because a person has committed a crime or criminal act. This theory was introduced by Kent and Hegel. Absolute theory is based on the idea that crime does not have a practical purpose, such as correcting criminals,

⁵ Wahyuni dan Indri Lestari, "Bentuk Kekerasan dan Dampak Kekerasan Perempuan yang Tergambar dalam Novel Room Karya Emma Donoghue", BASA TAKA Universitas Balikpapan, Vol. 1, No. 2, Desember 2018, hal. 21.

⁶ Ibid.

⁷ Yayah Khisbiyah, "Agresi dan Kekerasan Perspektif Teori Psikologi" (Yogyakarta: Pimpinan Pusat Ikatan Remaja Muhammadiyah, 2004), hal. 4.

⁸ Kamanto Sunarto, *Pengantar Sosiologi* (Jakarta: Lembaga Penerbit Fakultas Ekonomi UI, 2004), hal. 25.

but punishment is an absolute demand, not only something that needs to be imposed but a necessity, in other words the essence of crime is *revenge*.

As Muladi stated that⁹ "*The absolute theory views that punishment is a retribution for wrongdoing so that it is action-oriented and lies in the occurrence of the crime itself.*" This theory puts forward that sanctions in criminal law are imposed solely because a person has committed a crime which is an absolute consequence that must exist as a retaliation for the person who commits the crime so that the sanction aims to satisfy the demands of justice.

From the theory above, it seems clear that crime is an ethical requirement, where a person who commits a crime will be punished and the punishment is a necessity which characterizes and changes ethics from evil to the better. According to Vos,¹⁰ "*The theory of absolute retaliation is divided into subjective and retaliation objective. Subjective retaliation is retaliation for the perpetrator's wrongdoing, while objective retaliation is retaliation for what the perpetrator has created in the outside world*".

2. Relative Theory or Purpose (*Doel Theorien*)

Relative theory or goal theory, based on the basis that crime is a tool to enforce order (law) in society. This theory is different from the absolute theory, the rationale is that the imposition of a crime has the aim of improving mental attitudes or making criminals harmless, a process of building mental attitudes is needed. According to Muladi about this theory that:¹¹

"Criminalization is not a retaliation for the perpetrator's mistake but a means of achieving a useful goal to protect the community towards the welfare of society. Sanctions are emphasized on their purpose, namely to prevent people from committing crimes, so they are not aimed at absolute satisfaction of justice."

This theory shows the purpose of punishment as a means of prevention, both special prevention aimed at the perpetrator and general prevention aimed at the community. This relative theory is based on three main objectives of punishment, such as preventive, deterrence, and reformative. The objective of preventive (*prevention*) is to protect the community by placing criminals apart from the community.

The purpose of fear (*deterrence*) is to create a fear of committing a crime, both for the individual perpetrator so as not to repeat his actions, as well as for the public as a long step. Meanwhile, the goal of reform (*reformation*) is to change the evil nature of the perpetrator by conducting guidance and supervision, so that later he can resume his daily life habits as a human being in accordance with the values that exist in society.

⁹ Zainal Abidin Farid, *Hukum Pidana 1*, Sinar Grafika, Jakarta., 2007, hlm. 11.

¹⁰ Andi Hamzah, *Asas-Asas Hukum Pidana*, Rineka Cipta, Jakarta, 1991, hlm. 27.

¹¹ Zainal Abidin, *op.cit*, hlm. 11

C.1.2. Seniority

One example of violence that often becomes a polemic is the act of seniority in school. The act of seniority itself is often carried out by students at a higher level against students who are just about to start their education in a particular school. In school, students perceive seniority as a *gap* between seniors and juniors.¹² For example, usually when the new school year at a school has officially started, the school will usually hold MOS (School Orientation Period) activities or similar activities with the aim of introducing new students to their new educational environment. Students who sit at a higher level will be entrusted with helping to smooth the course of these activities. However, sometimes this opportunity is taken advantage of by a group of students who feel that they are 'seniors' at the school and new students must respect them, so these seniors will start to carry out hazing actions which include telling their juniors to do something, scolding juniors for no reason, even giving punishment for mistakes made by juniors. The punishments given sometimes seem beyond reason and often have fatal consequences and endanger the lives of juniors.

The effect of the emergence of seniority actions on juniors would be juniors feeling pressured by their seniors because they are not free when they are at school and cannot freely use school facilities. Juniors are more afraid of their upperclassmen than their teachers. And the most fatal thing is for juniors when they go up to the new school year where they go up one level and have new juniors, they will do the same things their seniors have done before. Because they will think that in fact what is called seniority is where the upperclassmen are free to do anything to their underclassmen, and this will eventually become a never-ending tradition.

C.1.3. The Definition of Children

For the Definition of Children In sociological studies, it can be said that children are part of society. Sociology describes the duties or roles of a child during his development:

1. At the age of 5-7 years, children start looking for friends to play with.
2. At the age of 8-10 years, children begin to get serious together with their friends, getting closer to each other.
3. At the age of 11-15 years, children make friends as friends. In general, a child is someone who is born, is the beginning or the forerunner to the birth of a new generation, and as the successor to the ideals of family, religion, nation and state. Children are considered as human resources, assets, or the future for the development of a country. According to the Republic of

¹² Siswoyo, 2010, 'XSDNDQ6HQLRULWDV', Artikel diakses pada tanggal 23 Juli 2011 dari http://waspadamedan.com.indeks.php?options=com_content&view=article&id=4815:lupakansenioritas&catid=74:kreasianditemid=231

Indonesia Law Number 23 of 2002, a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb.¹³

C.1.4. The concept of Criminal Law

Muladi and Barda Nawawi argue that the elements of the definition of criminal include:¹⁴

- a. In essence, the punishment is an imposition of suffering or sorrow or other unpleasant consequences;
- b. The punishment was given intentionally by an authorized person or body (by the competent authority);
- c. The punishment is imposed on a person who has committed a criminal act according to law.

Imposition of punishment, no matter how light, is essentially a deprivation of basic human rights.¹⁵ Therefore, the use of crime as a means of criminal politics must be based on reasons that can be justified philosophically, juridically and sociologically.¹⁶

C.1.5. Relative Theory

Relative theory is also called utilitarian theory, was born as a reaction to absolute theory. Broadly speaking, the goal of crime according to relative theory is not just retaliation, but to create order in society.¹⁷ As stated by Koeswadji, the main objectives of punishment are:¹⁸

1. To maintain public order (*dehandhaving van de maatschappelijke orde*);
2. To repair losses suffered by the community as a result of the occurrence of crimes. (*het herstel van het door de misdaad onstane maatschappelijke nadeel*);
3. To correct the criminal (*verbetering vande dader*);
4. To destroy the criminal (*onschadelijk maken van de misdadiger*);
5. To prevent crime (*tervoorkonning van de misdaad*)

British philosopher Jeremy Bantham (1748-1832), is a figure whose opinion can be used as the basis of this theory.¹⁹ According to Jeremy Bantham , humans are rational creatures who will consciously choose pleasure and avoid distress.²⁰ Therefore a punishment must be

¹³ Tim Penyusun, *Himpunan Peraturan Perundang-undangan Republik Indonesia Undang-undang Perlindungan Anak*, (Yogyakarta: Laksana, 2018), hal. 11.

¹⁴ Roeslan Saleh, *Stelsel Pidana Indonesia*, (Jakarta: Aksara Baru, 1983), hal. 4.

¹⁵ Usman, "Analisis Perkembangan Teori Hukum Pidana", *Jurnal Ilmu Hukum*, hal. 66.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ Koeswadji, *Perkembangan Macam-macam Pidana Dalam Rangka Pembangunan Hukum Pidana*, (Bandung: Citra Aditya Bhakti, 1995), hal. 12

¹⁹ Usman, "Analisis Perkembangan Teori Hukum Pidana", *Jurnal Ilmu Hukum*, hal. 71.

²⁰ *Ibid.*

assigned to each crime in such a way that the trouble will be heavier than the harm caused by the crime.²¹ The objectives of the crime itself are:²²

1. Prevent all violations;
2. Prevent the most sinister offenses;
3. Suppress crime;
4. Reduce losses / costs as small as possible.

In criminal law science, this relative theory is divided into two, namely:

- a) general prevention (*generale preventie*),
- b) special prevention (*speciale preventie*).

C. 2. Legal Basis

Seniority violence that occurs in the school environment often involves the perpetrator and the victim who are both still under the category of minors. Therefore, the application of the Criminal Code against offenses committed by perpetrators needs to be considered in view of the age limit.

The category of minors or children, as referred to in Article 1 Number 1 of Law Number 23 of 2002 concerning Child Protection, is someone who is not yet 18 (eighteen) years old, including children who are still in the womb. In the discussion of the following case, the perpetrator Anggar bin Antoni is 17 years old and the victim Wiko Jerianda is also known to be 16 years old. So both the perpetrator and the victim are still categorized as children.

In Law Number 11 of 2012 concerning the Juvenile Justice System, the perpetrator of Anggar bin Antoni can be further categorized as a Child in Conflict with the Law, and hereinafter referred to as a Child, because he has been suspected of committing a criminal offense with the age of 12 (twelve) years old but not yet 18 (eighteen) years old. Victim Wiko Jerianda was further categorized as Child Victims of Crime, hereinafter referred to as Child Victims.

Regarding mistreatment resulting in the death of the victim's child by the perpetrator, it can be punished under Article 351 Paragraph (3) of the Criminal Code with the threat of a sentence of 7 years in prison. The law does not emphasize the true meaning of "persecution", but in jurisprudence the meaning of persecution can mean deliberate acts that cause discomfort, pain or injury. According to Paragraph (4) this article means that persecution is an act that deliberately damages people's health.²³

Persecution is included in Article 351 "ordinary persecution" because the persecution was not planned beforehand, while the death consequences caused the perpetrator to be threatened

²¹ Ibid.

²² Ibid.

²³ R. Sugandhi, *KUHP dan Penjelasannya*, (Surabaya: Penerbit Usaha Nasional, 1981), hal. 366.

with a heavier sentence as stated in Paragraph (3). However, in practice, the use of Article 351 Paragraph (1), Paragraph (2), and Paragraph (3) will still depend on the judge's decision.

The actions of the perpetrators who have mistreated underage victims led to the application of Law Number 35 of 2014 concerning Child Protection. The Child Protection Law used is Law Number 35 of 2014, because of its newer nature so that it replaces the previous Child Protection Law, namely Law Number 23 of 2002 which then applies the principle of *lex posterior derogat legi priori*. Meanwhile, the application of the Child Protection Law acts as a *lex specialis derogat legi generali* compared to the articles of abuse contained in the Criminal Code.

The sound of Article 63 Paragraph (2) of the Criminal Code: "*If an act is included in a general criminal rule, it is also regulated in a special criminal rule, then only the specific thing is applied.*" This reinforces the reason why child abuse is applied in the law. Child Protection and overriding the application of the Criminal Code.

Furthermore, in addition to the application of the Child Protection Law, children suspected of committing criminal acts also need to pay attention to how to treat them by applying the SPPA Law (Child Criminal Justice System Law). By paying attention to the two laws, the perpetrators who have violated Article 76C of Law Number 35 of 2014 the criminal sanctions can be considered as follows.

Crimes that can be punished against the perpetrator in accordance with Article 80 Paragraph (3) of the Law Protection Child and Article 79 Paragraph (2) of the Law SPPA which reads as follows: "*Anyone who places, allows, commits, orders to commit, or takes part in committing violence against children to death, shall be punished with imprisonment of up to 15 (fifteen) years and / or a maximum fine of Rp. 3,000,000.000.00 (three billion rupiah). Criminal restrictions on freedom imposed against the old Children 1/2 (one half) of the maximum imprisonment threatened against adults.*"

Based on these two regulations, the maximum punishment that can be imposed on the perpetrator is imprisonment for a maximum of 7 (seven) years and 5 (five) months and / or a maximum fine of IDR 1,500,000,000.00 (one billion and five hundred million rupiah).

In this case, the application of the provisions based on the SPPA Law applies the principle of *lex specialis* to the Criminal Code since the enactment of the Law, because it is related to the crime of children. This is also emphasized in Article 103 of the Criminal Code, that chapter one to eight of the KUHP also apply to other provisions outside the KUHP as long as other laws are not stipulated (*lex specialis derogat legi generali*).

C.3. Criminological Theory

C. 3. 1. Crime from Biological and Psychological Factors

Biological theory is a subtype of positivist theory. The focus on that leads to the individual then leads to research on the study of evil behavior or human crime on the view that a person's criminality is actually biologically related.²⁴

Efforts to find the causes of evil from biological characteristics were pioneered by phrenologists, such as Gall (1758-1828) and Spurzheim (1776-1832), who tried to find a relationship between skull shape and behavior. They are based on Aristotle's opinion which states that the brain is an organ of reason. The teachings of these phrenologists are based on basic prepositions:

- The outer shape of the skull corresponds to what is in it and the shape of the brain,
- Intellect consists of an ability or skill, and this
- Ability or skill relates to the shape of the brain and skull. Because the brain is the organ of the mind, it's lumps are an indication of a certain ability / ability of the organ.²⁵

Cesare Lombroso (1835-1909), a medical and judicial doctor was an important figure in finding the causes of crime and the physical (biological) characteristics of criminals in his book *L'uomo Delinquente* (1876), so that he is often seen as the father of criminology. modern and a pioneer of the positive school.

1. According to Cesare Lombroso, criminals are people who have evil talents.
2. This evil talent is acquired by birth, which is inherited from an ancestor (*born criminal*).
3. This evil talent can be seen from certain biological characteristics, such as an asymmetrical face, thick lips, a snub nose, and so on.
4. The evil talent is not changed, meaning that the evil talent cannot be influenced.²⁶

Attempts to find the causes of evil from psychological factors are quite new. Like positivists in general, the search for psychic characteristics in criminals is based on the assumption that criminals are people who have different psychological characteristics from people who are not criminals, and these psychic characteristics lie in their low intelligence.

After all, criminal psychology must be based on psychology itself, while psychology is a science that has a rather slow development. In general, psychologists develop their knowledge by dividing humans with certain types (typology). However, the resulting typology cannot simply be applied to criminals. Criminal psychology is the study of the psychological characteristics of healthy criminals, meaning healthy in a psychological sense.

²⁴ Mega Fitri Hertini. *Perkembangan Kriminologi di Era Millenial*, (Pasuruan : CV. Penerbit Qiara Media, 2020)

²⁵ Istijab, *Kriminologi*, (Pasuruan : CV. Penerbit Qiara Media), hal. 36.

²⁶ Ibid., hal. 36-37.

Remembering about a healthy soul is very difficult to formulate, and even if there is, the formulation is very broad. The forms of mental disorders that will be discussed here are:²⁷

a. Psychoses

1. Organic Psychoses

The forms of organic psychoses include:

- General paralysis of the brain, which is characterized by a continuous deterioration of the entire personality. At the initial level, criminal acts such as theft, fraud, forgery are carried out in an open and ignorant manner.
- Traumatic psychoses, which result from injury to the brain resulting from an accident (concussion). Sufferers are easily nervous and tend to commit violent crimes.
- *Encephalis lethargica*, generally the sufferers are children who often commit anti-social acts or sexual misconduct.
- *Senile dementia*, the sufferers are generally elderly men with deterioration in physical and mental abilities, emotional disturbances and loss of control over others, causing acts of violence or sexual violations against children.
- *Puerperal insanity*, which is suffered by women who are pregnant or some time after giving birth due to extreme anxiety caused by unwanted child birth, economic stress, and physical exhaustion. The crimes committed were in the form of abortion, infanticide or theft.
- *Epilepsy*, is a very well known form of psychosis, but also a form of psychosis that is difficult to understand. The form of this disorder is very diverse.
- Psychoses resulting from alcohol.

2. Functional Psychoses

The main forms of functional psychoses are:

- *Paranoia*, the sufferer, among others, is delusional, feels great, and feels chased.
- *Manic-Depressive Psychoses*, the sufferer shows signs of changes from joy to excessive sadness, this situation can last for days or even weeks or longer. The crimes committed include crimes of violence, suicide, petty theft, fraud, drunkenness.
- *Schizophrenia*, often considered to be the most numerous and important form of functional psychoses. In the sufferer there is a divided personality, the idea of escaping from reality, a life of fantasy, delusions, and hallucinations. Sufferers usually couldn't understand the environment. Sometimes they even feel that someone is hypnotizing them.

b. Neuroses

The difference between psychoses and neuroses is still a matter of controversy. Statistically, violations of the law are mostly committed by people with neuroses than by psychoses. The following are forms of neuroses that often appear in the Court of Justice.

1. *Anxiety Neuroses* and *Phobia*.

His state is characterized by an unnatural and excessive fear of the danger of something or of

²⁷ Ibid., hal. 37.

something that does not exist at all. If it is connected with a certain object or ideology it is called a *phobia*.

For example:

- *Nyctophobia* - Fear of the dark;
- *Gynophobia* - fear of women;
- *Aerophobia* - fear of high places;
- *Ochlophobia* - Fear of crowds;
- *Monophobia* - Fear of being alone.

2. *Hysteria*. There is a dissociation between himself and his environment in various forms. Generally very egocentric, emotional, and likes to lie. In general, hysteria sufferers are women.

3. *Obsessional and Compulsive Neuroses*.

Sufferers have irrational desires or ideas. It is often said that this is because there are (sexual) desires that are suppressed due to fear of doing that desire, or because of certain norms or consequences. Form of *obsessional and compulsive* neuroses, such as; kleptomania, discomanisa, fetishism, *exhibitionist*, and pyromania. Regarding research on the presence of kleptomania conducted by TCN Gibbens, on thefts committed in supermarkets.

c. Mental Disabilities

In general, the notion of mental disabilities emphasizes the lack of intelligence rather than a person's character or personality, which is seen from the high and low IQ and level of maturity.

Psychology of Normal Criminals

The development of criminal psychology itself experiences obstacles because of the lack of attention in the study of criminal biology which is more directed at studying the pathology of crime, namely criminals who are mentally abnormal. Attention to this began to develop with the emergence of psychoanalysis and the growing awareness that there is no definite line between what is normal and abnormal.²⁸

C. 3. 2. Crime from Sociological Factors

Interaction happens between members of society in a certain area or between relationships between them. So the main object of criminal sociology is to study the relationship between society and its members, between groups, both because of the relationship between place and ethnicity with their members, between groups and groups, as long as this relationship can lead to crime.²⁹

²⁸ Ibid.

²⁹ Ibid, hal. 44.

This means how far the changes that occur in social life affect the development of crime. In general, it can be said that every society has a type of crime and criminal according to its culture, morals, beliefs and social, political, economic, legal, defense and security conditions and existing structures. In

studying social deviance (crime), two approaches can be taken:

1. Seeing deviations as an objective reality.

The main focus of this approach is something that is objective in nature, so in concluding the act of deviance is based on a description of the norms and values prevailing in society based on certain assumptions. First of all it is assumed that there is a consensus on the values / norms that apply in society, so based on this consensus it is relatively easy to identify the perpetrators of deviations / crimes. Because there are sanctions for acts of irregularities, then the imposition of punishment means reaffirming to the wider community that they are bound by a set of legal norms and values.³⁰

2. Deviations as problematic subjects.

In contrast to the above approach, this approach focuses on the social boundaries of the perpetrator of crime, therefore it is necessary to know the perspective of those who impose limits on a person as a social deviant.³¹

C.4. Group Analysis

C.4.1. Theoretical Analysis

The causes of seniority violence in the school environment, especially those that occur in high schools, based on the theories of the causes of violence that we have previously discussed are as follows:

1) Instinct Theory

This theory emphasizes that the offense occurred on the impulse nature of human biology, is in line with our analysis that the violence in school environments occurred at the instigation of adolescents who are biologically and currently experiencing hormone production so high that affects the excess energy that is owned but cannot be channeled properly. This causes students who are still teenagers to commit negative actions, not only limited to acts of violence against adolescents of the same age and younger, individually or in groups which can lead to fights. Other negative actions caused by high energy that are not channeled properly include promiscuity and the use of illegal drugs.

³⁰ Ibid., hal. 46.

³¹ Ibid., hal. 48.

2) Drive Theory

According to this theory, it is said that the violence stems from the human external conditions, such as frustration due to embarrassment and other consequences, can be regarded as the cause of violence. The existence of encouragement from outside themselves due to the frustration caused when they become new students and experience unpleasant actions or acts of violence that are usually carried out in open fields and seen by many people, can cause embarrassment that lasts until later that ends in frustration. It is this frustration that drives them to violence when they become seniors, with the excuse of venting resentment and resentment over the shameful treatment that has been harbored for years.

3) Social Learning Theory

Based on this theory, violence is stated as an action taken as a result of the process of observing and imitating the surrounding environment. This theory is considered appropriate, especially if the seniority violence has occurred for years and has been hereditary to become a culture in a school.

In addition, there is also a relative theory or a utilitarian theory of crime which states that crime is an act of retaliation and that creating order can also be correlated as a cause of seniority violence. It is the same as has been stated in the previous encouragement theory, that seniority violence in the school environment can occur as a result of revenge for actions that have previously been experienced, but under the guise of educating and building the physical and mental of new students.

Meanwhile, in terms of criminology, there are 3 factors that influence a person to commit an act of seniority violence, such as:

1) Biological factors

In terms of biological factors, according to experts such as Gall and Spurzheim, there is a relationship between skull shape and behavior. Because the shape of the skull cannot be seen with the naked eye, we attribute this biological factor to a person's physical form. The physical form of a person who is bigger has the potential to act arbitrarily to people whose physical form is smaller than himself. Being large in physical form also makes a person lighter or easier to commit violent acts in order to feel strong and superior.

2) Psychological Factors

The existence of social pressure from the surrounding environment that commits violence, encourages someone to participate in similar actions. The level of stress that students have also affects directly or indirectly the acts of violence committed, both to their peers and to people who are considered weaker than them, in this case, especially younger students.

3) Sociological Factors Social

conditions that exist around a person affect the occurrence of seniority violence. The conditions that occur at SMA Taruna Indonesia normalize violence in their environment, considering that this school is a semi-military school. Students are treated by both students and seniors so that they are physically and mentally, and verbally strong. They also encourage a lot of physical activity. The physical violence that occurs in terms of sociological factors can be a condition that 'has missed' an intention to educate the nation's future generations.

Then, based on the criminal theory previously described, which is the relative theory, the judge must see that the purpose of criminalizing the perpetrator is to create order and a deterrent effect for the perpetrator, so that in the future it is hoped that there will be no more seniority behavior occurring among junior high school students. and high school.

After law enforcement officials carry out their function to examine the causes of cases of seniority that occurred, the judge will later determine a decision for the perpetrator based on the cause of the perpetrator to commit the action, whether a theory that is more suitable to use is a relative theory that concentrates more on the objectives of punishment and order general, as well as absolute theories that focus on retaliation for crimes committed.

C. 4. 2. Overview of ICJS

ICJS is a judicial system that regulates how criminal law enforcement is carried out. In the criminal justice system, the implementation and administration of criminal law enforcement involves agencies, each of which has its own function.³²

Integrated Criminal Justice System in the context of justice in Indonesia is a situation where a functional and institutional relationship is established, namely coordination between one subsystem and another according to their respective functions and authorities, as well as functions and authorities regulated in criminal procedural law in order to enforce the law to be an applicable criminal law.³³

Thus, the criminal justice system (*Integrated Criminal Justice System*) includes the process of investigation, prosecution, and examination at trial to the implementation of judge decisions.³⁴ As for the sub-system of the criminal justice system, namely the police, prosecutors, courts and prisons, it is hoped that they can work together to finally form an "*Integrated Criminal Justice System*".

³² Nyoman Satyayudha Dananjaya, "Sistem Peradilan Pidana Terpadu (Integrated Criminal Justice System) Dikaji Dari Perspektif Subsystem Kepolisian", *Jurnal Ilmiah Agama dan Ilmu Hukum*, Vol. IX No. 1, September 2014, hal. 88.

³³ Jevons Bawekes, "*Integrated Criminal Justice System Terhadap Sistem Peradilan Tindak Pidana Perikanan*", *Lex Crimen*, Vol. II No. 7, November, 2013, Hal. 95.

³⁴ *Ibid*, hal. 96.

Law enforcement which contains the principle of proportionality is how law enforcement runs in such a way that it does not only enforce the normative rules (aspects of legal certainty) but also philosophical aspects (aspects and values of justice), which in this case aims to achieve the realization of proportional law enforcement. The media and instruments called the justice system are urgently needed.³⁵

If there is no integration in the work of the system, it is estimated that there will be 3 losses, namely as follows:³⁶

1. Difficulty in self-assessing the success or failure of each agency in relation to their joint duties.
2. Difficulties in solving the main problems of the agency (as a sub-system of criminal justice) by themselves.
3. Because the responsibilities of each agency are often not clearly divided, each agency does not really see the overall effectiveness of the criminal justice system.

To see how the application of ICJS as a process in cases of seniority violence that occurred at Indonesian Taruna High School, it is necessary to revisit the role of ICJS itself in terms of criminal law enforcement. In this case, because both the perpetrator and the victim are minors, the implementation of ICJS really needs to pay attention to regulations related to child protection, considering that before the law itself a child is deemed unable to represent himself so that special protections are needed.

In addition, ICJS plays a very important role as a system of criminal law, in which every component of the law enforcement apparatus can coordinate with each other to solve problems and provide justice as fairly as possible to victims of seniority. Law enforcement officials can take every effort to find out about the causes and factors that influence the perpetrators to carry out these acts of seniority. As has been explained in the previous explanation, there are several factors that can cause a person to undertake seniority, among others, due to instinct, drive, and imitation (imitation) of the social environment.

Furthermore, the perpetrator can be detained because the requirements in Article 32 Paragraph (2) of the SPPA Law have been fulfilled, namely; the child has reached the age of 14 (fourteen) and is suspected of committing a criminal offense with the threat of imprisonment of 7 (seven) years or more. Detention for the purpose of investigation can only be carried out for a maximum of 7 (seven) days, with an extension of a maximum of 8 (eight) days by the Public Prosecutor at the request of the Investigator as regulated in Article 33 of the SPPA Law.

D. Conclusion

³⁵ Ibid.

³⁶ Ibid.

Seniority is one of the acts that often occurs in Indonesia, which until now can still be seen clearly in the world of Indonesian education. Seniority is often defined as training self-reliance and building one's physical and mental well-being. However, the problem is that in seniority there are always acts of violence, where this makes seniority actions unjustifiable by reason of physical and mental development.

In acts of seniority, there are often violations caused by seniors in the past who have experienced similar things and want to take revenge on their juniors. This is also related to the characteristics of 'seniority' itself where people who feel senior or have power tend to treat people under their power arbitrarily.

Based on the discussion that has been previously described, the conclusions that can be drawn are:

- The existence of a culture of seniority in the school environment using violence on the pretext of strengthening students physically and mentally cannot be justified.
- Often cases of seniority violence that occur do not end up receiving justice for the victim, because the perpetrator is still a minor. In fact, from the perspective of the law, there are already rules that regulate violence perpetrated by minors against minors (the Child Protection Law and the Child Criminal Justice System Law).
- The SPPA Law is a law that assists the application of ICJS in prosecuting perpetrators who are underage.

REFERENCES

Bawekes, Jevons. 2013. *INTEGRATED CRIMINAL JUSTICE SYSTEM TERHADAP SISTEM PERADILAN TINDAK PIDANA PERIKANAN*. Lex Crimen, II (7).

<http://erepo.unud.ac.id/id/eprint/11614/1/f12be23c1beac354c8d11190a6636827.pdf>

<https://media.neliti.com/media/publications/3107-ID-integrated-criminal-custice-system-terhadap-sistem-peradilan-tindak-pidana-perik.pdf>

Hertini, M. F. (2020). *Perkembangan Kriminologi di Era Millenial*. pasuruan: VC. Penerbit Qiara Media.

Kementerian Pendidikan dan Kebudayaan Republik Indonesia. 2016. "Kamus Besar Bahasa Indonesia". <https://kbbi.kemdikbud.go.id/>, diakses pada 20 Maret 2021.

Khisbiyah, Yayah. 2004. *Agresi dan Kekerasan Perspektif Teori Psikologi*. Yogyakarta: Pimpinan Pusat Ikatan Remaja Muhammadiyah.

Koeswadji. 1995. *Perkembangan Macam-macam Pidana Dalam Rangka Pembangunan Hukum Pidana*. Bandung: Citra Aditya Bhakti.

Putusan Pengadilan Negeri Palembang Nomor: 183/Pdt.G/2019/PN.Plg.

Sunarto, Kamanto. 2004. *Pengantar Sosiologi*. Jakarta: Lembaga Penerbit Fakultas Ekonomi.

Saleh, Roeslan. 1983. *Stelsel Pidana Indonesia*. Jakarta : Aksara Baru.

Sugandhi, R. 1981. *KUHP dan Penjelasannya*. Surabaya: Penerbit Usaha Nasional.

Satyayudha Dananjaya, Nyoman. 2014. *Sistem Peradilan Pidana Terpadu (Integrated Criminal Justice System) Dikaji Dari Perspektif Subsistem Kepolisian*. Jurnal Ilmiah Agama dan Ilmu Hukum, IX(1).

STIJAB, (2020). *KRIMINOLOGI*. Pasuruan: CV. Penerbit Qiara Media.

Tim Redaksi BIP, *KUHP dan KUHP*, (Jakarta: Penerbit Bhuana Ilmu Populer, 2017).

Tim Penyusun, 2018, *Himpunan Peraturan Perundang-undangan Republik Indonesia Undang-undang Perlindungan anak*, Yogyakarta: Laksana

Usman. *Analisis Perkembangan Teori Hukum Pidana*. Jurnal Ilmu Hukum.

Wahyuni, Indri Lestari. 2018. *Bentuk Kekerasan dan Dampak Kekerasan Perempuan yang Tergambar dalam Novel Room Karya Emma Donoghue*. Basa Taka Universitas Balikpapan, 1(2), 21.

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