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RESEARCH ARTICLE

THE REGULATION URGENCY OF CHILDREN UNDER 12 (TWELVE) YEARS OLD IN THE ACT OF JUVENILE JUSTICE SYSTEM IN INDONESIA

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Abstract

In the Act No. 11 of 2012 about the Juvenile Criminal Justice System, it explains the age limit for juvenile criminal responsibility for those who commit criminal acts, as regulated in Article 1 point 3. The children between 12 (twelve) years old and 18 (eighteen) years old are suspected of committing a crime.. The purpose of this study was to determine and analyze the urgency of regulating teenager under the age of 12 in the constitution of Republic of Indonesia Number 11 of 2021 on the Juvenile Criminal Justice System as well as children in conflict with the law. This type of normative legal research uses a statute approach and a case approach through a literature study. The results of the research on the urgency of regulating children under the age of 12 in Act Number 11 of 2021 concerning the Juvenile Criminal Justice System as well as children in conflict with the law. Many cases of crime that occur under the age of 12 years. So that special attention is needed regarding the minimum age limit for children who can be given criminal sanctions related to Article 1 letter 3 and Article 21 paragraph 1 of Act Number 11 of 2021 about the Juvenile Criminal Justice System without ignoring the psychological aspects of the child, whether acting as perpetrators, witnesses or victims. The purpose of punishing children is relatively not just to retaliate against people who commit criminal acts but has a useful purpose.

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Introduction:-

The 1945 Constitution of the Republic of Indonesia as referred to in Article 28 B paragraph (2), to provide legal protection to all children states: "Every child has the right to survive, grow and develop and has the right to protection from violence and discrimination." also spelled out in Law Number 39 of 1999 concerning Human Rights and Law Number 35 of 2014 amendments to Law Number 23 of 2002 concerning Child Protection, which in its provisions still considers special protection for children.

Children as assets and successors of the nation from the state to achieve goals based on knowledge that has noble character and is well educated and virtuous, as stated in the preamble to the Constitution of the Republic of Indonesia Number 35 of 2014 concerning Child Protection (Child Protection Law) in terms of considering : it is stated that children as buds, potentials, and future generations for the ideals of the nation's struggle have strategic roles, characteristics, and special characteristics so that they must be protected from all forms of inhumane treatment

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that result in violations of human rights. Therefore, children must get the widest opportunity to grow and develop optimally to guarantee the fulfillment of their rights with protection and welfare for children. Paul Hadisuparto emphasized that welfare in the context of children is a way of life and livelihood of children that can ensure proper growth and development, both spiritually, physically and socially.

In Act No. 11 of 2012 about the Juvenile Criminal Justice System, it explains the age limit for child criminal responsibility for those who commit criminal acts, as regulated in article 1 point 3. 12 (twelve) years old, but not yet 18 (eighteen) years old who are suspected of committing a crime. Provisions on the age for liability for criminal acts of children as stipulated in the Law on the Juvenile Criminal Justice System with a view to applying the principle of the best interests of the child.

Article 21 paragraph (1) about c the child is not yet 12 (twelve) years old, commits or is suspected of committing a crime, investigators, community advisors, and Professional Social Workers shall make a decision to: a. Give it back to the parent/guardian, or b. Participate uniformly in education, coaching and mentoring programs in government agencies or LPKS in agencies dealing with social welfare, both at the central and regional levels, for a maximum of 6 (six) months.

In the norm as article 1 point 3 and article 21 paragraph (1) of the SPPA Law explains the age limit for children who commit criminal acts, children must not be less than 12 years old for a criminal justice process to be carried out so that they cannot balance the interests of both the victim and the victim. community with child offenders, in connection with the rise of serious criminal acts committed by children under 12 years of age.

Globalization affects the development of information technology so that it has an impact on the development of people's ways of life and also the development of children which brings radical changes in human values due to this information revolution which is more destructive to human values (dehumanization) than a war with modern firearms.

These late-stage cognitive changes affect the development of children who think formally and operationally which results in a decline in idealistic thinking so that they emerge with more realistic and pragmatic thinking (Jean Piaget's theory of cognitive development) with the occurrence of serious criminal events committed by children who are less than 12 years old.

The results of a survey by the Witness and Victim Protection Agency (LPSK) stated that every year there was an increase in requests for protection against sexual violence against children from 2016 to 2019 which continued to increase from the number of LPKS applicants. There are at least 4 cases of sexual abuse committed by children almost every week. From several child criminal cases, there are incidents of unlawful acts committed by children who are less than 12 years old, for example, the case of the death of SR (8) a State Elementary School (SDN) student. The second grade elementary school student died allegedly after fighting with his friend in the elementary school yard in the Cicantayan District, Sukabumi, West Java, on Tuesday 8/8/2017) morning.

Act Number 11 of 2012 concerning the Juvenile Criminal Justice System, provides special protection, especially legal protection in the criminal justice system carried out by children. Children who take legal actions will receive special protection, by prioritizing the best interests of children and providing opportunities for children to be responsible and useful for themselves, their families, society, nation and state. Norms that specifically regulate the criminal liability of children under the age of 12 in the Juvenile Criminal Justice System, article 1 no 3 of the Juvenile Criminal Justice System Act:

“A child who is in conflict with the law, hereinafter referred to as a Child, is a child who is 12 years old, but not yet 18 (eighteen) years old who is suspected of committing a crime.”

Article 21 paragraph (1) of the Juvenile Criminal Justice System Act. About a child under the age of 12 (twelve) years old commits or is suspected of committing a crime, investigators, community advisors, and professional social workers shall make decisions to:

1. hand it back to the parent/guardian, or
2. participates in education, coaching, and mentoring programs in government agencies or LPKS in agencies dealing with social welfare, both at the central and regional levels, for a maximum of 6 (six) months.

The Act of the Juvenile Criminal Justice System on the substance of norms regulates the age limit of children. However, serious criminal events committed by children under the age of 12 disrupt the security, public order and the environment is not conducive. This is because there is no balance of interests between perpetrators of child crimes, victims, witnesses and the community.

Criminal liability for children who are less than 12 years old with consideration of (a) sociological, psychological and pedagogical considerations, (b) children who are not yet 12 years old and in the age range of 12-18 years still need guidance from their parents, (c) age sufficient for the child to understand the consequences of the crime committed, and (d) the age range of 12-18 years does not yet have emotional, mental and intellectual maturity.

Simons said that the ability to be responsible can be interpreted as a psychological state in such a way that the application of a sentencing effort, both in general terms and from the point of view of the person, can be justified. Furthermore, a criminal is capable of being responsible if he is able to know / realize that his actions are contrary to the law and are able to determine his will in accordance with this awareness.

According to Simons, the formulation of criminal liability must to pay attention on:

1. The inner state of the person who did the deed;
2. The relationship between the mental state and the actions performed,

"In such a way that the person can be reproached because of the previous act". Two things that must be considered, closely intertwined with each other is a thing which called error. That unity is inseparable, we will review separately, so that it can be examined more deeply.

As an overview it can be said that: the first thing, about the mental state of the person who commits the act, in criminal law it is a matter commonly called the problem of ability to be responsible; the second thing, about the relationship between the mind and the actions taken, is a matter of intentional, negligence and forgiving reasons; so that they are able to be responsible, have intentional or omission and the absence of a forgiving reason are elements of error. These three elements are a unity that cannot be separated. The one depends on the other, which means: thus the order and the latter depends on the first mentioned. Concretely: It is impossible to think about intentional or negligence, if that person is not able to take responsibility. Likewise, you can't think about the reasons for forgiveness, if people are not able to take responsibility. and neither will it be intentional or negligent.

Furthermore, since there is no point in holding the accused accountable for his actions if the act itself is not against the law, it can be further said now that there must first be certainty about the existence of a criminal act, and then all the elements of the guilt must also be linked with criminal act committed, so that for an error to result in a defendant being convicted, the defendant must be:

1. commit a criminal act;
2. able to be responsible for:
3. intentionally or negligently; and
4. there is no excuse for forgiveness.

Criminal liability is different from criminal acts. Criminal acts only refer to prohibited and threatened actions with a crime. Whether the person who commits the act is then sentenced to a crime, depends on whether the act contains an error. Because the principle in criminal law liability is "not to be punished if there is no mistake (*Geenstrafzonderschuld; Actus non facit reum nisi mens sis rea*) which means that the assessment of criminal responsibility is aimed at the inner attitude of the perpetrator, not an assessment of his actions. The exception to the principle of *actus reus* and *mens rea* is only for offenses that are strict liability (absolute responsibility), where in such a crime the element of error or *mens rea* does not need to be proven.

Protection of children is an important work that must be carried out by all elements of the state. These forms of child protection are also carried out from all aspects, starting from fostering the family, social control of children's associations, and proper handling through good regulations made by a country.

The scope of the definition of protection and the purpose of child protection is in line with the Convention on the Rights of the Child (KHA) and the protection of human rights which are enshrined in the 1945 Constitution of the Republic of Indonesia. Article 22 B paragraph (2) of the Indonesian Constitution affirms:

"Every child has the right to survival, growth and development and the right to protection from violence and discrimination".

Child protection can also be interpreted as all human efforts so that the potential and successors of the ideals of the nation's struggle in the future have a strategic role and have special characteristics and characteristics and require special guidance and protection as well. In international meetings, legal protection for children can cover various aspects, such as the protection of human rights and freedoms aimed at preventing, rehabilitating and empowering children who have experienced child abuse, exploitation and neglect, in order to ensure their survival. and growth and development of children naturally, both physically, mentally and socially

The purpose of this research is to find out and analyze the urgency of regulating children under the age of 12 as well as children in conflict with the law. in the Act of the Republic of Indonesia Number 11 of 2021 on the Juvenile Criminal Justice System.

Research Methods:-

This type research is **juridical-normative research**, a legal research which is conducted by examining literature materials using the object of research in the form of existing libraries, so this research is also literature research. In legal research, an approach method is needed which is intended to obtain information from various aspects regarding the legal issues that are being tried to find answers.

The research approach is carried out as follows: The Statute approach, a normative research must use this Legislative approach because the various legal regulations that are the focus and the central theme of a study are studied. The Statute approach is carried out by reviewing and analyzing various laws and regulations governing the age limit of children in criminal liability. Case Approach; The main purpose of analyzing legal materials is to find out the meaning contained by the terms used in laws and regulations conceptually as well as knowing its application in practice and legal decisions.

Legal research sources can be divided into research sources in the form of primary legal materials and secondary legal materials. Primary legal materials are legal materials that are authoritative, meaning they have authority. Primary legal materials consist of legislation and judges' decisions. Meanwhile, secondary materials are all publications on law which are not legal documents which are not official documents. Publications on law include textbooks, legal dictionaries, legal journals and comments on court decisions. Primary legal materials are legal materials that are authoritative, meaning they have authority, where this legal material consists of legislation, official records or minutes in making laws and judge decisions if needed which includes the Criminal Code, Act Number 3 of 1997 concerning Juvenile Court, Act Number 39 of 1999 concerning Human Rights, Act No. Number 23 of 2002 concerning Child Protection, as well as Act Number 11 of 2012 concerning the Juvenile Criminal Justice System .Secondary legal materials are the work meeting minutes on the draft of the juvenile justice law and the minutes of the working meeting of the draft law on the juvenile criminal justice system, research results and legal literature, as well as articles and legal journals from the internet relating to the age limit for juvenile criminal responsibility, in Criminal Law in Indonesia in the form of all publications on law that are not official documents, usually in the form of legal books or references, scientific papers, the internet and even mass media letters, all of which are related to existing legal issues .Tertiary legal materials were obtained from the Big Indonesian Language Dictionary and the General Indonesian Dictionary, as well as the Oxford Dictionary obtained from accessing the internet, which are legal materials that must also be able to explain primary legal materials and secondary legal materials. This legal material is needed to support other legal materials.

Primary legal materials search in the form of statutory regulations and grouped according to the hierarchy of laws and regulations. Searching for secondary legal materials in the form of text books, and tracing tertiary legal materials in the form of legal dictionaries and legal journals by conducting a literature study.

The analytical technique used in this research is descriptive analysis. Descriptive analysis begins with grouping the same data and information according to sub-aspects. Furthermore, interpretation is carried out to give meaning to each sub-aspect and its relationship to one another. Then, an analysis or interpretation of all aspects is carried out to understand the meaning of the relationship between one aspect to another and with all aspects that are the subject matter of research carried out inductively so that it gives a complete picture of the results. In addition to obtaining a complete picture, there are times when the next step is determined by taking into account the special domains that

are interesting to study. Thus, the next research material makes it possible to be more focused and focused on more specific problems.

Discussion:-

The Urgency of Regulation of Children under 12 years old in Act Number 11 of 2021 about the Juvenile Criminal Justice System (UU. SPPA) as well as Children in Conflict with the Law. Article 21 paragraph 1 point (a), of the Act of the Republic of Indonesia Number 11 of 2021 on the Juvenile Criminal Justice System, it is stated that children under 12 years old will be handed back to their parents/guardians. This means that the child does not receive a legal/criminal justice process for the mistake or crime he has committed. The legal decision will make the victim's family, witnesses and the community around where the perpetrator lives feel dissatisfied and unfair. Anxiety and concern for the community, especially the victim and his family, arise when the perpetrator returns to the community. In fact, the perpetrator, namely a child under the age of 12 years, has committed a crime such as molestation or murder where the crime if committed by an adult is included in the severe punishment. Thus, the child requires that the punishment must be formulated appropriately, according to the level of the error committed.

The object of criminology has recently experienced a shift in which the focus of attention is no longer on the reasons why someone commits a crime while others do not. But it shifts why one person's action is defined as a crime while another is not. Austin Turk argues that the focus of criminology is no longer on the criminal character of behavior, but on the process of criminalizing behavior. Thus, according to Clayton A. Hartjen, there is a shift in the focus of attention from offenders/criminals to the criminal justice system and on the relationship between perceptions of crime, the implementation of criminal law and society.

In its development, attention is focused on the criminal justice system, not only seen as a crime prevention system, but rather as a social problem that is the same as crime itself. It is said so because in addition to the fact that crime continues to increase, which can be seen due to the ineffectiveness of the criminal justice system, also because the criminal justice system in certain cases can be seen as a criminogenic and victim genic factor.

In relation to the above, W. Clifford argues that: the increase in crime has been sufficient to draw attention to the inefficient structure of criminal justice that currently exists as a crime prevention mechanism. A similar statement was made by Johannes Andenaes, that the higher and increasing average crime rate is evidence of the failure or incompetence of the current system. Likewise, Manuel Lopez-Rey, a Bolivian professor of Criminal Law and Criminology, in his lecture at the Fourth United Nations congress on The Prevention of crime and the Treatment of offenders, said that: the current criminal system is not compatible with the current and future developments of society. , is generally outdated and clearly unfair and is an overall contributing factor to the criminal increase.

The unfavorable condition of the law as a factor in the emergence of crime, which has been stated by J.E Sahetapy. Although, there are other factors, which as the inconsistent implementation of the law and the attitudes or actions of law enforcers. Similarly, the opinion of Wolf Middendorf, states that the overall effectiveness of criminal justice depends on: the existence of good legislation (good legislation); fast and certain enforcement (quick and certain enforcement); and proper and uniform sentencing).

There is a relationship between the criminal increase and the irrationality of criminal law policies, as seen in John Kaplan's view associated with the opinion of Edward M. Kennedy. According to John Kaplan, one of the most chaotic aspects of the criminal code is the condition of the Criminal Code itself. In most countries, the sanctions available for different offenses are completely without a rational basis or basis. This is one of the main supporters of the difference in treatment of violators whose faults are comparable.

Thus, if the Criminal policy which contained in the Criminal Code is not well planned or John Kaplan's term "without a rational basis" it can lead to criminal disparities. The consequences of criminal disparity, according to Edward M. Kennedy are:

1. Can maintain the growth or development of cynical feelings of society towards the existing criminal system;
2. Failing to prevent the occurrence of criminal acts;
3. Encouraging (increasing) crime activity and;
4. Obstructing corrective action against violators.

In relation to the policy to limit imprisonment, Prof. RoeslanSaleh once stated that legislators should be frugal with this type of prison sentence.

Based on research that conducted by Muladi, BardaNawawiArief. There are too many conducive factors in the policy of criminal legislation that provide opportunities and increase the possibility of imprisonment.

Conducive factors that do not support policy are include:

1. Imprisonment is the type of crime that is most threatened in the formulation of criminal offenses and most of them are formulated in an imperative manner, both single and cumulative formulations;
2. There is no statutory provision as a safety valve (*veiligheidsklep*) that provides guidance and comfort to judges to avoid, limit or soften the implementation of prison sentences which are formulated in an imperative manner;
3. Weak provisions regarding conditional punishment so that it is unable to overcome the rigid nature of the imperative prison sentence formulation system.
4. Weak legislative policies in making fines effective are often formulated alternatively with imprisonment;
5. There are no guidelines for imposing imprisonment that are explicitly formulated in the legislation;
6. There is no provision that authorizes judges to change or completely stop the implementation of a prison sentence that has permanent force.

As a result of the existence of conducive factors, the reality obtained in practice is as follows:

1. Most court decisions in criminal cases impose imprisonment, even for perpetrators of crimes under the age of 16 years;
2. Although the maximum imprisonment imposed is less than 1 year (around 87%), which according to the provisions of the law it is possible for judges to impose conditional sentences, in reality it is very rare or very few conditional sentences are imposed (ranging from 5-9%);
3. Due to the weakness of the criminal system of fines, judges prefer to impose short prison sentences rather than impose fines;
4. In dealing with criminal cases that are punishable by cumulative imprisonment – an alternative to fines, in reality judges prefer the alternative system (prison or fines) and the alternative chosen is mostly imprisonment.

Thus, it can be estimated that the number of people who have been sentenced to imprisonment is not solely because the person concerned deserves to be sentenced to prison, but precisely because of the weakness of legislation related to the criminal and criminal system, specifically regarding imprisonment.

Sentencing a child must be very careful, if there is no other choice, such as the child repeatedly committing criminal acts and the nature of the crime increases. Then, the sentencing must also be supported by positive laws that have sanctions for violations. Based on the awareness of the problem of children in our country, it is a main problem that needs to be considered and solutions to be considered, especially in the context of the protection and treatment of children in the field of justice. Therefore, criminal justice needs to pay attention to two things:

1. Future lawbreakers who are young or immature;
2. Sociological and psychological consequences due to the application of a type of law. Thus, it is hoped that this will always be the background for the actions given by the judge.

Consideration and treatment of children who commit crimes need to receive special treatment, because in juvenile justice the judge's decision must prioritize the provision of educative guidance to children, in addition to punitive actions.

The most appropriate and wise action is to impose a criminal sentence on the child in accordance with what is needed, by not leaving the prevailing laws and regulations so far and in order to ensure the rights and protection of the child, the following steps are sought:

1. If the court sees and believes that life in the family environment can help the child not to commit a criminal act anymore. In this case, it is wise not to impose any punishment.
2. If the child's family situation does not provide a guarantee, while the family situation does not provide a good example, then of course the right choice is to make him a child of the state.

The age factor will affect human behavior in terms of physical, psychological, and sociological. Physical growth, maturity, development of biological functions in the body, mental abilities, temperament and personal relationships in the midst of the environment.

The imposition of a juvenile crime cannot only be based on juridical considerations, because the value of justice and truth is not only measured by the value of losses, the impact of actions, the truth of material law which is often used in politically charged interpretations and non-factual evidence. To anticipate the imposition of criminal law on children, it is necessary to consider non-juridical elements: criminology, education, economics, socio-culture and child psychology which can be the background for the perpetrator to commit a crime. Criminal acts committed by adults are often influenced by intentional intentions and greater experience when compared to criminal acts committed by minors. The motivation of criminals committed by minors is more demanding for recognition from friends and society. While adults don't.

From the description above, it is clear that mental development between children and adults has different influences and impacts on the quality of criminal acts, where children have psychological development that increases periodically (periodically psychological development of minors), unlike adults who psychologically mature. In this regard, KartiniKartono, wrote:

At the age of 1-5 years, children are born in the world in incomplete conditions, because all instincts, physical functions, and their spiritual are not yet fully developed. KartiniKartono stated :Children who aged 0-8 years, the child is in a state stage, meaning that in addition to getting a vague total picture, he begins to observe objects more carefully, the actions of adults, and animal behavior. At the age of 8-10 years, he is able to distinguish parts, but has not been able to connect with one another in a totality relationship. Fantasy has been replaced by concrete experience.

In connection with this period of mental development, F.J. Monks et al classify the age of adolescence as follows:

1. Pre-adolescent (pre-pubertal): 10-12 years;
2. Early adolescence (puberty): 12-15 years;
3. Mid-teens 15-18: years;
4. Late teens 18-21: years old.

In the theory of child psychology, the developmental transition between childhood and adulthood, which involves biological, cognitive, and socio-emotional changes. The change starts from the age range of 10 to 13 years and ends at the age of about 18 to 22 years.

At this time, the child's physical growth is very rapid so that he grows fast and his body weight increases and his body length growing. Along with the rapid growth of the body, there is also a very intensive intellectual development so that children's interest in the outside world is very large. This intellectual development builds various psychological functions and spiritual curiosity (*Psykologicalcuriosity, geestelijkenieusgierigheid*) so that there is a strong urge to seek knowledge and new experiences. The increase in activity does not mean an increase in the child's aggressiveness but is:

1. The process of intensification of children's adaptability to the realities of the world;
2. An attempt to better control the environment and overcome the difficulties of life.

All of these activities are made possible by the principle of dynamic active development in children, the sources of all these activities are as follows:

1. The drive to grow or the ability to be as and;
2. Independent encouragement (self-supporting drive).

At this stage, legal actions committed by children who are less than 12 years old, as according to the psychological theory of children (more precisely starting at the age of 10 years), must be able to be held accountable for the legal actions committed. As with the theory of child psychology, children are able to reason logically about concrete events and objects, by referring to the age of the child who is due to concrete operations or when a child is 11 year old who is able to reason by thinking realistically and pragmatically or as he begins the fourth stage of cognitive development. and final or formal operational stage.

Age is the benchmark in Piaget's definition, although adolescents actually have a broad meaning that includes mental, emotional, social, and physical maturity (Piaget in Hurlock, 1980), which means that at this age, children begin to integrate with adult society. Piaget stated that cognitive development is not only the result of the maturity of the organism, nor the influence of the environment alone but the result of the interaction between the two.

Children will receive information from the maturity of the development of the nervous system. Then, the information will be the basis of how the child will behave towards the environment. After the child performs a certain action or behavior in the environment, feedback will appear. This feedback is the result of the child's interaction with the environment. This feedback is divided into two where the feedback is positive or negative. This means that if the child digests positive information that has been taught by both parents and the learning environment is good, then the social interactions that the child does will be positive or the child already has good thought and emotional maturity in digesting every action that occurs when the child do social interactions.

Children who already have psychological and emotional maturity from the teachings of both parents, if the child interacts with an environment that tends to be negative, the child's initially positive thought pattern will change or be affected by his interaction with a bad environment. So as Piaget said, the behavioral tendencies of children under the age of 12 are not only seen from the maturity of the individual or the environment. However, it is more towards the result of the child's interaction with his environment.

The urgency of regulating children under the age of 12 in the Act of the Republic of Indonesia Number 11 of 2021 on the Juvenile Criminal Justice System. what the researcher means is that it is mandated in article 1 no. 3 and article 21 paragraph (1) regarding the elimination of criminal liability errors in children who aged less than 12 years. In terms of giving the meaning of error, the researcher follows the theory of normative error (*normatiefschuldbe grip*). Before the teaching of normative error was widely known, criminal law experts stated that error was understood from several meanings by viewing error solely as a matter of a person's psychological state (*psychologisschuldbe grip*). When a person commits a crime, it will always be related to the psychology of the perpetrator of the crime.

Similar opinions are often found in Common Law System countries, psychological errors are commonly referred as *mensrea*, which is understood as the psychological state of the maker when the maker commits a crime. Wilson said "at earlier stage in our history the notion of *mensrea* as synonym for guilty mind". Wilson's statement was the beginning of *mensrea* as the same concept as the mind with guilt. Thus, *mensrea* is simply defined as a mental element. *Mensrea*, whether in the form of intention, recklessness or Negligence, is seen as an element of a criminal act, in the form of the psychological state of the maker when performing an action.

When it is viewed from the element of error, the notion of error is that the perpetrator of a crime can be blamed because from the perspective of society, he can actually do something else if he doesn't want to do the act.. This definition is composed of three components, namely that it can be reproached, viewed from the perspective of society and can do other things.

Then, the meaning of reproach has two meanings, which are:

1. "reproachable" means that it can be accounted for in criminal law. In this case, the error relates to the preventive function of criminal law. The word "can" indicates that the reproach or criminal liability can be lost if the maker has a reason to erase the guilt;
2. "can be reproached" is also interpreted as "can be punished". In this case, the error is related to the repressive function of criminal law. The word "can" indicates that reproach or criminal imposition does not have to be carried out by a judge. The judge may only impose sanctions, even though the criminal act is proven and the defendant is guilty, it is possible that reproach or criminal imposition is not carried out, if the judge decides to grant a pardon (*rechterlijk pardon*) in his decision.

In terms of society, there are human legal subjects, "the presence or absence of an error cannot be determined by the actual state of the defendant's mind. However, it depends on how the law evaluates whether there is an error value in a person's mental state. Thus, even though the error is understood in a normative sense, in human legal subjects it does not mean that it is completely removed from the inner state of the person who commits the crime.

Therefore, based on the explanation and elaboration, including the law on imposing child crimes and the psychological theory of children above, the regulation of children under the age of 12 is in the Law of the Republic of Indonesia Number 11 of 2021 on the Juvenile Criminal Justice System. there is a need for improvements or additions to written legal rules that can improve the rules related to criminal law for children under the age of 12 in Indonesia, seen from the increasing number of crimes involving children under 12 years old based on the object of criminology and victimology.

Conclusion:-

The Urgency of Regulation of Children under 12 years old in Act Number 11 of 2021 about the Juvenile Criminal Justice System (UU. SPPA) as well as Children in Conflict with the Law. Due to the development of criminal acts which committed by children, it has become a special concern for legal practitioners. Many cases of crime that occur under 12 years old. So that special attention is needed regarding the minimum age limit for children who can be given criminal sanctions related to Article 1 Number 3 and Article 21 paragraph 1 of Act Number 11 of 2021 about the Juvenile Criminal Justice System (UU.SPPA) without ignoring the psychological aspects of the child, whether acting as perpetrators, witnesses or victims. The purpose of punishing children is relatively not just to retaliate against people who commit criminal acts but has a useful purpose. The current child criminal system has adopted the Double Track System, in which this system places two types of sanctions (criminal sanctions and action sanctions). With the hope that in the process there will be a balance in the consequences borne by the child as the perpetrator, the child as the victim and the child as a witness. This system is also the basis that children under 12 years old are guaranteed protection and their rights. Therefore, article 1 number (3) so that children under 12 years old (10 years to be exact) can be classified as children in conflict with the law, it is necessary to have additional rules or amendments regarding the minimum age limit for children who can be punished with the following notes:

1. a child under 12 years old (minimum 10 years) with a record that the child is psychologically proven and in a conscious state and is followed by strong legal evidence and states that the child has committed an act against the criminal law;
2. pursuant to an additional rule in paragraph (a) the criminal law action referred to is a serious legal action such as murder, robbery, rape, injuring or killing a person.

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