



Presumption of Innocence towards Suspected Children Of Robbery

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Abstract:

This research delves into the principle of the presumption of innocence regarding suspected perpetrators who are still minors and attending school. The handling of criminal offences committed by minors requires special attention. This research is normative research using a legal or statutory approach. The research results show that children as perpetrators of mugging are a unique phenomenon within the legal jurisdiction of Lhokseumawe City. Children's involvement in robbery cases is sometimes nothing more than a search for identity, as not all of them exhibit deviant behaviour. However, the effects of such actions have become a serious problem. In addition, since it is not proven at the time of arrest and processing, and they are returned to their parents, and the education system has its own rules for handling naughty children, the decisions made sometimes impact the child's continued education.

Keywords: Presumption of Innocence; Children; Mugging

INTRODUCTION

The presumption of innocence is a fundamental principle in the judicial system which states that everyone involved in legal proceedings, including children, is presumed innocent until a final and binding court decision states otherwise (Harahap 2010). This principle encourages people not to take the law into their own hands, which could violate applicable regulations. Even though the presumption of innocence principle still applies, the juvenile justice system has a special approach that considers the rights and best interests of children, especially those suspected of being involved in robbery (Situngkir 2018).

Children are the future generation of the nation and the future of development, namely the generation that is being prepared as the subject of sustainable development and the controllers of a country's future, and Indonesia is no exception (Yanto et al. 2020). The protection of children in Indonesia means protecting the potential of human resources and developing the Indonesian people as a whole, towards a just and prosperous society, both materially and spiritually, based on Pancasila and the 1945 Constitution. In positive law in Indonesia, the protection of children is regulated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

This law regulates the responsibilities of the state, government, local government, community, and parents in protecting children from various forms of violence, exploitation, neglect, and discrimination. Similarly, the issue of minors who commit unlawful acts is regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, although it does not explicitly regulate how perpetrators and victims should be treated, even victims within the system, as a result of the regulations themselves, as shown by the results of research conducted from 2023 to 2024, involving

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13 people who were investigated and 5 people who were found guilty of robbery, the rest were returned to their parents, who were found to be victims of the system itself, where in addition to being arrested, undergoing investigation, detained, and returned to their parents in the presence of community leaders (Sujana 2020). Not only that, they were exposed in the mass media, even though their names were disguised, but their places of residence were clearly stated in the mass media, not to mention the criticism from the community that led to sanctions being imposed on them in the place where they were building their future (school) under the pretext that the school had its own SOP (Standard Operating Procedure) or rules that had to be obeyed by its students. This casts a shadow over the child's future, even though the child has not been proven to have committed any deviant acts (robbery).

The Circular Letter of the Chief of the Indonesian National Police Number SE/8/VII/2018 regulates the application of Restorative Justice in the settlement of criminal cases within the Indonesian National Police, including the handling of cases involving children. This circular letter provides guidelines for Indonesian National Police investigators in handling criminal cases with a restorative justice approach, which emphasizes the restoration of relationships between perpetrators and victims and involves the community in the resolution process. Therefore, every action taken should prioritize the presumption of innocence, especially when the perpetrators are children who require special treatment in accordance with the juvenile justice system. This means that children are presumed innocent until proven guilty in court. Robbery crimes are increasingly prevalent in every region of Indonesia, especially in the city of Lhokseumawe.

METHODS

This study uses a normative legal and legal approach. The normative legal approach examines laws and regulations related to juvenile crime (Christiani 2016). Meanwhile, the empirical legal approach examines how these normative legal provisions are applied in practice, and then provides alternative solutions to the problem of children suspected of robbery in the city of Lhokseumawe. This research is descriptive and analytical in nature, meaning that the data obtained will be described by providing an overview of legal issues and the legal system and then examining or analyzing them in accordance with the needs of the research (Chang 2024). The data will then be analyzed based on existing legal provisions in order to obtain materials in the form of theories, concepts, legal principles, and legal regulations related to the subject matter.

RESULTS

Basically, the term *begal* in the Big Indonesian Dictionary is defined as a robber, namely a person who forcibly seizes valuable items belonging to others using violence. This term is used in traditional communities and has developed into a term for criminals who intercept victims on the road and rob them of their belongings (Garner 1999). The term *begal* is not yet regulated in Indonesian positive law. Criminal law can be likened to two concentric circles, the first of which is the largest. The difference in size between the two circles varies greatly depending on place and time; at one time the two circles overlap, at another time they are far apart. In the first case, this means that a society that threatens almost all violations with punishment is weak from within (Sudrajat 2011).

Begal is a criminal act that is very harmful and disturbing to society. It is an act of violence that often involves coercion and the forcible taking of goods from victims using weapons, physical violence, and psychological terror (Pangestika 2020). In some tragic cases, robbery even causes loss of life. The fear and insecurity felt by the community must be addressed immediately. Robbery is not only detrimental materially, but can also cause serious psychological trauma to victims.

The frequent cases of robbery in Lhokseumawe and other cities are a very serious and worrying issue. This crime violates individual rights and disturbs the peace of the community. To protect citizens and ensure proper security, the law requires respect for the principle of presumption of innocence. Before a verdict is reached, a person is considered innocent until proven guilty by a court of law.

The principle of presumption of innocence is a fundamental principle of law. This principle applies in all phases of the legal process, whether at the police, prosecutor, or court level. The legal process is extremely unfair if the police, prosecutors, or judges consider a defendant guilty without waiting for the evidence. And an unfair legal process is the greatest contradiction. *Ius quia justum*, "law because it is just," was already emphasized in ancient Roman law. Unfair law, does not deserve to be called law. No matter how important the principle of presumption of innocence is in law, it remains a legal principle that must be prioritized.

This certainly does not mean that the opposite is true in the context of public policy, where a defendant is considered guilty even though the evidence has not been found (Bertens 2024). In the context of public policy, there is certainly another perspective, where morality is prioritized. How about the principle of legal certainty, especially for perpetrators who are still in school? The involvement of children in robbery cases is a separate issue that must be observed and examined from various legal perspectives so that children do not become victims of the existing system.

The handling of robbery cases committed by children has sparked pros and cons. On the one hand, the perpetrators are indeed people who are capable of such acts, and on the other hand, it is easy to obtain the means to achieve this goal, namely through online orders. Data from 2023 shows that 13 and 5 people were proven to be involved in robbery cases, and in 2024, 5 teenagers were proven to be involved in robbery cases. Due to the prevalence of robbery cases, a curfew was imposed in accordance with SE Number: 145/86/2024 concerning the Joint Appeal of the Regional Leadership Communication Forum (Forkopimda) of Lhokseumawe City on Handling Juvenile Delinquency with the title Robbery Emergency in Lhokseumawe City (Editorial 2024).

However, behind all this, there is another issue that needs to be considered: not all children involved in robbery cases have been proven guilty, but the effect of their arrest has an impact on their future. Starting from the arrest process, summoning of parents, assistance from community leaders, to the punishment imposed at school, namely expulsion from school for those proven guilty and for those not proven guilty, they must be suspended or temporarily dismissed in accordance with the school's SOP (Standard Operating Procedure), published in the mass media, which is very much against existing laws and regulations.

Children's privacy rights in Indonesia⁶ have been stipulated in several laws and regulations, including Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (which has been amended several times) and Law Number 11 of 2008 concerning Electronic Information and Transactions. (ITE Law) which has been amended by Law Number 19 of 2016. In addition, Law Number 27 of 2022 concerning Personal Data Protection (PDP Law) also provides a legal basis for the protection of personal data, which includes children's personal data. This law specifically regulates the protection of children, including the right to privacy, identity, and personal data.

Violations of children's privacy can occur in various forms, including the illegal dissemination of children's personal information, unauthorized access to children's personal data, and other actions that harm children (Agung 2024). This is compounded by the lack of understanding among children and families about the guarantees provided by the state, which have been enshrined in various laws and regulations on children's rights, so that they accept the consequences of the enforcement of these laws on their children. All of these processes have become a punishment in themselves for children, which would not happen if the principle of presumption of innocence for children in conflict with the law were upheld. Thus, children do not become victims of the existing system.

DISCUSSION

The principle of presumption of innocence is a familiar term in the legal world. However, even though it is often heard, there are still many misconceptions about its meaning. The principle of presumption of innocence does not necessarily mean that a person is considered "innocent." In principle, the presumption of innocence is a universal right that applies to every citizen, especially to

someone who is facing legal issues and has the status of a suspect or defendant (Muslich 2004). This principle is a form of legal protection and respect for human rights that the state provides to everyone.

The presumption of innocence is a global principle that is applied in various aspects of life in many countries, as explained by Oemar Seno Adji (Adji 2014). The presumption of innocence is believed to have emerged in the 11th century and was born out of individualistic-liberalistic ideology. In the Common Law system, the principle of presumption of innocence is a key requirement for determining that a process has been carried out honestly, fairly, and impartially. The principle of presumption of innocence means that a person cannot be considered legally guilty until there is a final and binding court decision declaring them guilty. The application of this principle begins when a person is detained and named as a suspect, followed by a police investigation, prosecution by the prosecutor's office, and a court hearing.

Crimes of robbery or alleged robbery committed by children, particularly in relation to child protection and the juvenile justice system, are regulated in Law Number 11 of 2012 concerning the Juvenile Justice System. The Law Number 11 of 2012 concerning the Juvenile Justice System provides special protection for children in contact with the law, whether as perpetrators, victims, or witnesses of criminal acts. From this description, it is clear that the presumption of innocence should also be applied in schools. Although not explicitly regulated in school regulations, this principle is in line with the principles of justice and protection of human rights that should be upheld in education (Gultom 2013).

The application of the presumption of innocence in schools is important for: 1. Protecting students' rights, meaning that students accused of wrongdoing, whether academic or behavioral, must be treated with the presumption of innocence. They are entitled to a fair process and should not be immediately presumed guilty before clear evidence is presented. 2. Prevent bullying and discrimination. Without the presumption of innocence, students may become targets of bullying or discrimination based on rumors or unproven accusations. 3. Building a positive learning environment; applying the principle of presumption of innocence helps create a school environment that is more fair, safe, and supportive of student development (Hartono 2019).

In the context of national regulations in the world of education, although there are no specific regulations that explicitly mention the principle of presumption of innocence, schools can adopt this principle in their rules and procedures for handling problems. For example, in cases of disciplinary violations, schools must give students the opportunity to defend themselves, gather evidence, and provide clarification before imposing sanctions. This way, children feel that they have been given the right to defend themselves and explain their problems. Therefore, it is important for teachers and school staff to understand and apply the principle of presumption of innocence in their interactions with students and in the process of handling problems. This is in line with efforts to create schools as safe, fair, and conducive places for student development. The principle of presumption of innocence is not only a legal principle, but also a strong foundation for building a fair, just, and respectful society, especially in the educational environment. The juvenile criminal justice system also emphasizes a restorative justice approach, which aims to restore the situation of the victim and the perpetrator, not just retribution.

In practice, the principle of presumption of innocence sometimes faces challenges and controversy. Sometimes, in high-profile or serious cases, public pressure can influence perceptions and assumptions about the accused. Social media and inaccurate reporting can also influence public opinion and create negative assumptions about individuals who have not been proven guilty. Therefore, it is important for society to understand the importance of upholding the principle of presumption of innocence and respecting due process of law. The protection of individual rights and justice should not be sacrificed for the sake of public opinion or the desire for swift punishment. The principle of presumption of innocence must continue to apply in schools, even in cases of alleged perpetrators of robbery. Even if there are allegations against a student, the school must still treat the student according to the principle of presumption of innocence, not immediately punishing or labeling them as guilty before there is strong evidence and a fair legal process. This is a fundamental principle

in the legal system which states that everyone is considered innocent until proven guilty by a court of law (Arifin and Jaenuri 2023).

Schools, as educational institutions, must also respect the rights of students, including the presumption of innocence. This means that even if there are allegations or reports of criminal acts, schools should not immediately punish or convict the student. If there are allegations of criminal acts involving students, schools should cooperate with the authorities to conduct a fair investigation. Schools must also give students the opportunity to defend themselves and provide evidence to support their version of events (Hawa 2021). The application of the presumption of innocence in schools aims to protect students' rights, prevent discrimination, and ensure that legal proceedings (if any) are conducted fairly and transparently. Teachers and school officials must understand and apply the presumption of innocence when handling such cases. They must be neutral, impartial, and ensure that every student is treated fairly and in accordance with the law. It is important to remember: Even though there is a presumption of innocence, schools also have a responsibility to maintain safety and order in the school environment. If there are dangerous actions, schools can take appropriate measures, but must still pay attention to the rights of the students.

CONCLUSION

The principle of presumption of innocence plays a crucial role in maintaining justice and protecting individual rights in the judicial system. In the school environment, this principle needs to be applied to avoid discrimination that is not permitted by law. Through proper respect and application of this principle, the principle of presumption of innocence is expected to ensure that every individual is treated fairly, their rights are respected, and justice is achieved in the legal process. The principle of presumption of innocence is a moral and legal foundation, especially in the world of education, in maintaining integrity and justice in the school environment in particular and society in general.

Conflict of Interest

All the authors declare that there are no conflicts of interest.

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