



Analysis of Decision Number 23/Pid.Sus-Anak/2024/Pn Smn Concerning the Sentencing of a Child Perpetrator of a Narcotics Crime Based on Restorative Justice

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Abstract: This study aims to analyze the judicial reasoning behind the sentencing of a juvenile involved in a narcotics offense and evaluate the application of restorative justice principles in Decision Number 23/Pid.Sus-Anak/2024/PN.Smn at the Sleman District Court. Utilizing a normative juridical research design with statutory and case approaches, the research relies on the analysis of legal documents, statutory provisions, and court decisions. The findings indicate that the judge's considerations encompassed both juridical factors, such as the fulfillment of evidentiary standards and legal provisions, and non-juridical aspects, including the child's age, behavior, and social background. Despite the presence of mitigating circumstances and the legal eligibility for diversion, the restorative justice mechanism was not applied. This reflects a prevailing punitive orientation in narcotics-related juvenile cases, revealing a disjunction between the protective framework under the Juvenile Justice Law and the stringent enforcement of the Narcotics Law. The study concludes that there is an urgent need for greater integration of restorative justice principles in juvenile drug cases to ensure rehabilitative outcomes and uphold the best interests of the child.

Keywords: juvenile sentencing; narcotics; restorative justice.

1. Introduction

Indonesia, as a state governed by the rule of law as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, bears the obligation to provide legal protection for all citizens, including children in conflict with the law. One of the serious challenges currently facing the Indonesian legal system is the increasing involvement of children in narcotics-related crimes, both as users and as participants in distribution networks. This phenomenon creates a tension between two divergent legal approaches: the treatment of narcotics as a serious crime and the principle of child protection as a fundamental pillar of the juvenile criminal justice system (Iswari, 2020).

According to the 2023 National Survey conducted by the National Research and Innovation Agency in collaboration with the National Narcotics Board, the prevalence of narcotics abuse in Indonesia reached 1.73% of the population aged 15–64 years, equivalent to approximately 3.3 million individuals. Even more concerning is the fact that this increase in prevalence is accompanied by a significant rise in the involvement of children as offenders within narcotics distribution networks. Children who should be the subjects of legal protection are instead being drawn into the conventional criminal justice system, which often prioritizes deterrence over rehabilitation (BRIN, 2025).

This imbalance generates both juridical and ideological conflicts. Juridically, there is a tension between the enforcement of Law Number 35 of 2009 on Narcotics, which emphasizes strict punitive measures against narcotics offenders, and Law Number 11 of 2012 on the Juvenile Criminal Justice System, which prioritizes the principles of restorative justice and special treatment for children. Ideologically, the Indonesian legal system faces a dilemma between the retributive paradigm, which focuses on punishment, and the corrective paradigm, which emphasizes rehabilitation and the protection of children's rights (Fitra Oktoriny, 2025).

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In the local context, this phenomenon is also reflected in data from the Sleman District Court. Based on case records from 2022 to 2025, a total of 13 narcotics abuse cases involving children were recorded. The data shows a concerning pattern: there were 3 cases in 2022 (representing 23% of total cases), which rose sharply to 7 cases in 2023 (54% of total cases), then declined significantly to 3 cases in 2024 (23% of total cases), and as of mid-2025, no new cases have been identified. The year 2023 stands out as particularly problematic, accounting for more than half of all recorded cases during this four-year period. This fluctuation indicates that the issue of children as perpetrators of narcotics-related offenses in the Sleman region is a recurring problem that warrants special attention in the enforcement of juvenile justice, with 2023 representing a critical peak that requires further investigation into the underlying factors contributing to this surge.

A concrete example can be found in the decision of the Sleman District Court Number 23/Pid.Sus-Anak/2024/PN.Smn. In this case, a 16-year-old boy was found not only to have used synthetic tobacco (commonly known as “gorilla tobacco”) but also to have been involved in its distribution network. This study is significant in examining in greater depth how judicial considerations—both juridical and non-juridical—are applied in sentencing child offenders in narcotics cases, as well as to what extent the principles of restorative justice are implemented in practice. Accordingly, this research is expected to contribute to the strengthening of a juvenile criminal justice system that is more just, responsive, and aligned with the principles of child protection.

2. Materials and Methods

This research employs a normative legal research method with a qualitative-descriptive approach. Normative legal research is conducted to analyze legal norms, statutory regulations, legal principles, and doctrines that are relevant to the legal issue under study (Nugraha, 2024). The approaches applied in this research are the case approach and the statutory approach (Muhaimin, 2020). The statutory approach is applied to assess the consistency of the judicial decision with the prevailing legal framework, particularly Law Number 11 of 2012 on the Juvenile Criminal Justice System and Law Number 35 of 2009 on Narcotics (Sigit Sapto Nugroho, 2020).

The data used in this study consists of secondary data, which includes: Primary legal materials: statutory regulations, court decisions, and legal codes. Secondary legal materials: textbooks, scholarly articles, legal journals, and expert opinions (Djulaeka, 2020). Data were collected using document study techniques, which involve the systematic collection and review of relevant legal documents, legislation, and court judgments (Nugraha, 2024). This process includes selecting, organizing, and interpreting authoritative sources relevant to the research problem. The data processing method used is content analysis, where legal texts and judicial decisions are examined for patterns, legal reasoning, and normative consistency. The data analysis technique applied is qualitative-descriptive analysis (Muhammad Ulil Absor, 2023) which involves: Describing the content of legal norms and judicial decisions; Interpreting the meaning and legal implications of the court's reasoning; Comparing the court decision with applicable statutory provisions; Drawing conclusions based on the alignment between legal theory and judicial practice (DQLab, 2022).

3. Results and Discussion

The discussion focuses on two main aspects: first, an analysis of the factors influencing judges in sentencing children involved in narcotics crimes; and second, the application of

restorative justice principles in the judicial process of the child in Decision Number 23/Pid.Sus-Anak/2024/PN.Smn.

3.1. Factors Influencing the Judge's Decision

The considerations made by judges are a crucial element in realizing the values embodied in court decisions. This process reflects the principle of fair trial and ensures legal certainty, both for the defendant and for the broader society. Therefore, every judicial decision must be based on a careful, logical, and accountable deliberation process. In this context, there are two primary types of considerations that influence judges in rendering their decisions: juridical factors and non-juridical factors (Indonesia, 2024).

a. Juridical Factors

Juridical factors include considerations related to the evidence presented, the applicable statutory provisions, and the legal facts revealed during the trial. In Decision Number 23/Pid.Sus-Anak/2024/PN.Smn, the judge took into account the indictment by the public prosecutor, witness testimonies, the defendant's statement, and the evidence submitted. All elements of the criminal offense as stipulated in Article 112 paragraph (1) in conjunction with Article 132 paragraph (1) of the Narcotics Law were deemed to be fulfilled.

This assessment is in line with the approach taken by Nova Apriyanto in his research on Decision Number 27/Pid.Sus-Anak/2018/PN.Mtr, which also emphasized the validity of evidence and the alignment of legal reasoning within the framework of the Juvenile Criminal Justice System Law and the Narcotics Law. However, this study offers a more refined focus on the use of combined charges and provides a deeper analysis of the logical relationship between the submitted evidence and the legal construction developed by the prosecutor—an aspect that was not examined in detail in Nova's research.

Furthermore, this study differs from the research conducted by Nurfi Usmianti on Decision Number 97/Pid.Sus/2011/PN.Btl, which focused solely on the judge's considerations based on positive law, without exploring the integration between evidentiary analysis and the rehabilitative goals for child offenders in narcotics cases. In contrast, this study highlights how the judge sought to balance criminal sanctions with the protective function owed to the child.

b. Non-Juridical Factors

Judicial consideration is a highly crucial element in realizing the values reflected in a court decision, which embody the principles of justice and ensure legal certainty. On the other hand, this also benefits the disputing parties. Therefore, this process must be carried out carefully and thoroughly. If a judge fails to consider the case attentively and cautiously, the decision made on such grounds may be annulled by the High Court or the Supreme Court

According to the provisions of the Law on Judicial Power, judicial consideration refers to the judge's opinion or reasoning used in delivering a verdict, taking into account aspects that may aggravate or mitigate the defendant's sentence. Every judge is obliged to include their consideration or opinion in writing during the examination of a case, which forms an integral part of the court's decision (*Harahap, 2023*). A judge examining and adjudicating a case is expected to act fairly, wisely, and prudently, and to prioritize a sense of justice and legal certainty, especially in regard to material truth. Therefore, the judge must be active and responsive, grounded in positive law, and employ logical legal

reasoning in accordance with both theory and practice, so that all considerations provided lead to a decision that is accountable from the standpoint of legal scholarship, protection of the defendant's human rights, the broader public interest, and the state, while upholding the value of justice based on belief in the Almighty God (*Nainggolan, 2023*).

Article 197 of the Indonesian Criminal Procedure Code (KUHAP) affirms the obligation of the judge to include "aggravating and mitigating circumstances of the defendant" in the ruling. If this element is not included in the decision, the ruling may be deemed null and void. Although Article 197 does not explicitly define what constitutes "aggravating and mitigating circumstances," Article 8 paragraph (2) of Law Number 48 of 2009 on Judicial Power provides further clarification, stating that in passing a sentence, judges must consider the "good and bad character of the defendant" (*Marzukian, 2023*).

Meanwhile, Article 183 of Law Number 8 of 1981 on KUHAP stipulates that a judge may only impose a sentence if there are at least two valid pieces of evidence that convince the judge that a criminal offense truly occurred and the defendant is the perpetrator. Article 184 of KUHAP outlines that valid evidence includes witness testimony, expert statements, documents or letters, indications, and the defendant's own statement (*Ariantita, 2024*). Article 1 point 26 of KUHAP further explains that a witness in a criminal case is an individual capable of providing relevant information for the purpose of investigation, prosecution, or trial concerning events that they personally saw, experienced, or heard.

The factors influencing a judge's decision can be divided into two categories: juridical and non-juridical. Juridical factors include consideration of valid legal evidence, the charges brought by the public prosecutor, and the legal facts presented during the trial. In this case, the judge declared that the second charge was legally and convincingly proven, namely that the child committed a criminal conspiracy to provide Class I non-plant-based narcotics, pursuant to Article 112 paragraph (1) in conjunction with Article 132 paragraph (1) of the Narcotics Law.

Meanwhile, non-juridical factors consist of sociological and philosophical considerations. Sociological considerations include the child's social background, age, behavior during the trial, and future plans. The judge also considered whether the child still had the potential to reform and reintegrate into society. Mitigating factors such as respectful behavior, young age, and a desire to continue education were also taken into account.

These factors were elaborated by the judge as follows: (a) Aggravating Circumstances: (a) The child's actions did not support the government's narcotics eradication program; (b) The child's actions caused public unrest. (b) Mitigating Circumstances: (a) The child behaved respectfully during the trial; (b) The child expressed a desire to continue their education; (c) The child is still young and is expected to be capable of self-improvement

The non-juridical considerations in this decision encompass sociological and philosophical dimensions, taking into account the child's social background, age, educational future, and social participation. The judge in this case acknowledged several mitigating factors, such as the defendant's respectful demeanor, status as an active student, and passive involvement in the narcotics distribution network. These considerations serve as important factors in avoiding excessively repressive sentencing (*Dudianto, 2022*).

In a comparative context, this approach demonstrates progress when compared to the research of (*Sabrina, 2023*) which emphasized legal protection from an interdisciplinary Islamic legal perspective but did not explore how social and personal aspects of the child are incorporated into the structure of judicial reasoning. This study also enriches the empirical approach by examining the defendant's role within the syndicate structure,

including identifying the initiators and those who carried out the distribution on the ground.

3.2. Application of Restorative Justice in the Decision

The Sleman District Court, as one of the courts handling juvenile cases in the Special Region of Yogyakarta, faces complex challenges in implementing the restorative justice approach in drug-related cases involving minors. This approach not only aims to provide a deterrent effect for the offender but also focuses on the recovery and reintegration of the child into society while prioritizing the best interests of the child.

a. Theoretical Foundation of Restorative Justice

Restorative justice emphasizes the recovery of victims and communities rather than retribution. In the context of children, this approach is relevant because it takes into account the protection and development of the child (*Farhana K.Lestari, 2023*). Its core principles include: who has been harmed, what are their needs, and who is responsible. Its advantages include avoiding stigmatization, involving families and communities, and reducing the negative impact of formal legal proceedings (*Uut Rahayuningsih, 2025*).

b. Legal Framework of Restorative Justice in Indonesia

Law No. 11 of 2012 (Juvenile Criminal Justice System Law - UU SPPA) serves as the primary legal basis, introducing diversion as a mechanism for resolving cases outside the court system. Although the Narcotics Law does not explicitly regulate diversion in juvenile narcotics cases, the principle of the child's best interest and the *lex specialis* doctrine allow for its application. The Supreme Court has also issued guidelines for implementing diversion through Supreme Court Regulation No. 4 of 2014 (*Gurindro, 2022*).

c. Dynamics of Narcotics Crimes Involving Children

Children become involved in narcotics crimes due to economic, social, familial, and psychological factors (*Nasional, 2020*). They often serve as both perpetrators and victims, starting from drug use to being part of the distribution network (*Nashriana, 2019*). Such involvement has serious consequences on the physical, psychological, and social development of children (*Niluh, 2024*).

d. Implementation of Restorative Justice in Sleman District Court

The Sleman District Court implements diversion for children involved in narcotics cases through comprehensive assessments and deliberation with multiple stakeholders (*Rahman, 2022*). Diversion agreements may include rehabilitation, guidance, community service, and social reintegration. The main challenges include limited facilities, inter-agency coordination issues, public resistance, and a shortage of trained professionals (*Atmasasmita., 2020*).

e. Effectiveness and Challenges in Applying Restorative Justice

This approach has proven effective in reducing recidivism and enhancing children's social reintegration. However, challenges remain, such as inadequate infrastructure, cultural resistance, and a lack of skilled human resources. Its success relies heavily on inter-agency collaboration and sustainable rehabilitation programs.

f. Case Studies and Best Practices in Indonesia

Several courts have adopted innovative practices (*Sinaga, 2021*): (a) Central Jakarta District Court: An integrated diversion model in collaboration with NGOs. (b) Surabaya District Court: "Family House" initiative for family-based rehabilitation. (c) Bandung

District Court: “Second Chance School” focusing on children's education. (d) Sleman District Court: Local wisdom approach involving community leaders.

g. Recommendations for Improving Implementation

The following strategic steps are recommended: (a) Strengthening infrastructure: Provide facilities for rehabilitation, counseling, and coaching. (b) Human resource development: Train personnel involved in child and narcotics cases. (c) Inter-agency coordination: Form multidisciplinary teams across institutions. (d) Comprehensive rehabilitation: Cover medical, psychological, social, and spiritual aspects. (e) Community empowerment: Promote public education and awareness of restorative justice.

The implementation of the restorative justice approach within the juvenile criminal justice system is a normative mandate as stipulated in Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA). This concept prioritizes the restoration of harm caused by crime, the involvement of related parties (the offender, the victim, and the community), and non-penal resolutions through diversion mechanisms. However, in practice—particularly in Case No. 23/Pid.Sus-Anak/2024/PN Smn at the Sleman District Court—this approach was not applied optimally.

The decision reveals that, although the offender was a minor and met the criteria for diversion (not a recidivist, facing a sentence of under 7 years, and enrolled as a student), the case was still resolved through a litigious process, with no record of diversion efforts within the judicial proceedings. This reflects a rigidity in law enforcement officers' interpretation of diversion provisions, especially in narcotics cases, which are often classified as extraordinary crimes.

Compared to (*Apriyanto, 2021*) study on Decision Number 27/Pid.Sus-Anak/2018/PN MTR, this research places greater emphasis on the absence of restorative justice mechanisms, despite the legal space available for their application. Nova's study did not explicitly frame the absence of diversion as a normative critique, whereas this research makes the lack of restorative justice a focal point for evaluating both policy and the implementation of the SPPA Law.

Conversely, (*Sabrina, 2023*) study aligns more closely with the present research in highlighting the failure of diversion in narcotics cases. However, the difference lies in the theoretical approach: Dewi integrates Islamic law as a philosophical foundation, while this study relies on a structural mapping between the SPPA Law, the Narcotics Law, and field practice. It also offers a sharper focus on the lack of synergy between institutions and the technical obstacles encountered in the implementation of diversion.

Thus, the findings of this research demonstrate that, despite the existing legal framework supporting a restorative justice approach, its implementation remains ineffective in narcotics cases involving minors. This is due to factors such as the legal apparatus's interpretation of sentencing threats, concern over public opinion, and the suboptimal coordination among justice actors. The study underscores that the principle of the best interest of the child has yet to be prioritized in narcotics-related cases and is instead overshadowed by a still-dominant punitive approach.

Restorative justice, as mandated by the Juvenile Justice Law (UU SPPA), should be the primary approach in addressing juvenile cases. However, because narcotics crimes are often viewed as serious offenses, the application of restorative justice is frequently hindered by concerns over the lack of deterrence. In fact, the principles of restorative justice emphasize the importance of restoring social relationships, offender accountability, and protection of the best interests of the child.

4. Conclusions

This study demonstrates that in Decision Number 23/Pid.Sus-Anak/2024/PN Smn, the judicial approach toward a child offender involved in a narcotics case remains predominantly retributive. Although the child offender met the criteria for diversion, no application of restorative justice was observed throughout the legal process. This reflects a

disparity between the principles of child protection within the juvenile criminal justice system and law enforcement's perception of narcotics-related offenses as extraordinary crimes. Juridical factors, such as evidentiary requirements and statutory sentencing provisions, continued to be the primary basis for judicial consideration, while non-juridical factors—such as the child's social circumstances and future prospects—received insufficient attention in the judge's assessment.

These findings are crucial to be integrated into the training of law enforcement officers, particularly judges, prosecutors, and investigators, to enhance their sensitivity to restorative approaches in juvenile justice. Training programs should include modules on the effective implementation of diversion in juvenile narcotics cases, including simulations of diversion deliberations, identification of the child's social risk factors, and strengthened understanding of children's rights in criminal law. With improved institutional capacity, it is expected that law enforcement officials will not only comprehend the normative framework of restorative justice, but also consistently apply it in practice to realize a juvenile justice system that is fair, humane, and rehabilitative.

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