



Restorative Justice Efforts Inin The Settlement Ofof Narcotic Crime Byby Children (No. 10/Pid.Sus-Anak/2018/PN.K)

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ABSTRACT

Protection Commission (KPAI) has created an increase in the involvement of children in black drug trafficking. Meanwhile, in 2017, in a survey conducted by the Ministry of Health, it was stated that there were more than 22,000 drug problems in high school students' areas, 6,000 cases in junior high school students, and 3,000 problems for elementary school students. With the aim of this research, it is hoped that law enforcement officials, especially the police, must become the initiator and facilitator of the prosecution of children in conflict with the law by appealing to all parties involving perpetrators, victims, their parents, the surrounding community, or the school to sit together in dialogue meetings. the settlement process uses a restorative justice approach. This study uses a statutory approach (statute approach) and a case approach (case approach). Apart from the debate about the issue of violations of the Narcotics Law which are increasingly becoming a frightening crime for the community, child actors should be given their rights to obtain recovery as aspired to in the principle of restorative justice. However, in reality, in Verdict No. 10/Pid. Sus-Children/ 2018/ PN. Then, the child actually experienced significant difficulties in recovering mentally and psychologically because the panel of judges sentenced him to one year and 6 months in prison. Based on the above review, it can be concluded that the panel of judges in Verdict Number 10/Pid. Sus-Children/ 2018/ PN. KDI has not really thought deeply about implementing the principles of benefit and restorative justice. These considerations should be a serious concern for each judge when dealing with children as defendants in any matter. This journal examines the Medan City District Court decision No. 10/Pid.Sus-Anak/2018/PN.K in the case of criminal acts of Narcotics, Narcotics Law No. 35 of 2009 concerning Narcotics, in which the perpetrators of the crime of narcotics abuse who are subject to criminal sanctions are clearly categorized as minors. However, in their decision, the panel of judges imposed a prison sentence of one year and six months, while in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. This paper focuses on examining the extent to which judges consider the principles of expediency and restorative justice for the child in Decision Number 10/Pid.Sus-Anak/2018/PN.Kdi. The research in this writing is normative juridical law research with a case study approach. The conclusion is that judges are more likely to focus their considerations on the side of legal certainty without being more observant in exploring restorative justice from the decisions they pass on child defendants.

ABSTRAK

Secara statistik, Komisi Perlindungan Anak Indonesia (KPAI) telah menciptakan peningkatan keterlibatan anak dalam peredaran gelap narkoba. Sedangkan pada tahun 2017, dalam survei yang dilakukan Kementerian Kesehatan disebutkan terdapat lebih dari 22.000 masalah narkoba di wilayah siswa SMA, 6.000 kasus pada siswa SMP, dan 3.000 masalah pada siswa SD. Dengan tujuan penelitian ini diharapkan aparat penegak hukum khususnya kepolisian menjadi inisiator dan fasilitator penuntutan terhadap anak yang berkonflik dengan hukum dengan menghimbau kepada semua pihak yang melibatkan pelaku, korban, orang tuanya, masyarakat sekitar. masyarakat, atau sekolah untuk duduk bersama dalam pertemuan dialog. proses penyelesaiannya menggunakan pendekatan keadilan restoratif. Penelitian ini menggunakan pendekatan undang-undang (statute approach) dan pendekatan kasus (case approach). Terlepas dari perdebatan isu pelanggaran UU Narkotika yang semakin menjadi kejahatan yang menakutkan bagi masyarakat, pelaku anak harus diberikan haknya untuk memperoleh pemulihan sebagaimana yang dicita-citakan dalam prinsip restorative justice.

Namun kenyataannya, dalam Putusan No. 10/Pid. Sus-Anak/ 2018/ PN. Kemudian, sang anak justru mengalami kesulitan yang berarti dalam pemulihan mental dan psikis karena majelis hakim memvonisnya satu tahun enam bulan penjara. Berdasarkan penelaahan di atas, dapat disimpulkan bahwa Majelis Hakim dalam Putusan Nomor 10/Pid. Sus-Anak/ 2018/ PN. KDI belum terlalu memikirkan secara mendalam penerapan prinsip manfaat dan keadilan restoratif. Pertimbangan tersebut harus menjadi perhatian serius bagi setiap hakim ketika berhadapan dengan anak sebagai terdakwa dalam hal apapun. Jurnal ini mengkaji putusan Pengadilan Negeri Kota Medan No. 10/Pid.Sus-Anak/2018/PN.K di terkait kasus tindak pidana Narkotika UU Narkotika No. 35 Tahun 2009 tentang Narkotika, yang mana pelaku tindak pidana penyalahgunaan narkotika yang diancam pidana tersebut sudah jelas dikategorikan sebagai anak di bawah umur. Namun dalam putusannya, majelis hakim menjatuhkan pidana penjara selama satu tahun enam bulan, sementara dalam Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak. Tulisan ini fokus mengkaji sejauhmanakah hakim mempertimbangkan asas kemanfaatan dan keadilan restoratif bagi pihak anak dalam Putusan Nomor 10/ Pid.Sus-Anak/2018/PN.Kdi. Penelitian dalam penulisan ini merupakan penelitian hukum yuridis normatif dengan pendekatan studi kasus. Kesimpulannya bahwa hakim lebih cenderung menitikberatkan pertimbangannya pada sisi kepastian hukum tanpa lebih jeli lagi mendalami keadilan restorative justice dari putusan yang dijatuhkannya bagi diri terdakwa anak.

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I. INTRODUCTION

Referred to as Polri, is the initial gate in come into contact with the criminal justice system that tackles drug abuse by children. As we know, the National Police as a sub-system in realizing the goals of the criminal justice system, especially in the context of crime control. Control or prevention of crime is one of the targets that receives attention in the functioning of the criminal justice system (Muhammad, 2019).

Statistically, the Indonesian Child Protection Commission (KPAI) has created an increase in the involvement of children in illicit drug trafficking. Children continue to be victims until the couriers misuse these illicit objects. Whereas in 2017, in a survey conducted by the Ministry of Health, it was stated that there were more than 22,000 drug problems in high school student areas, 6,000 cases in junior high school students, and 3,000 problems in elementary school students (Detiknews, 2019). But at this time, based on the explanation from the KPAI Commissioner for Health, Siti Hikmawati, at the KPAI Office, Jalan Teuku Umar, Central Jakarta, Tuesday (6/2), if out of 87 million children with a maximum age of 18 years, it is known that there are 5.9 million who participate as drug addicts, among others, are 1.6 million children who function in trafficking activities (Kumparan, 2018)

Lately there has been an increase in the abuse of narcotics being tried by children, especially in the city of Medan. Based on the information the author obtained from the Medan City Police, in 2018 there was 1 (one) problem and 3 (three) children as defendants, on the contrary from January to September 2016 there were 1 (one) problem and 2 (2) children.) children as defendants and all these issues have been P21 and delegated to the next justice system.

Especially for the problem of children as drug users, not all of the police, prosecutors and judges place children as victims of narcotics. In the event that a child is confirmed and identified as a user, the highest sentence remains imprisonment and not action. The majority of children were convicted, 37% were sentenced to prison, 18% were sentenced to job training. There are 18% of children whose conclusions are returned to their parents, only 9% of cases where children are medically rehabilitated (Reformasi, 2019). Apart from that, relevant discourse which has recently gained more and more space in law enforcement reform in Indonesia is an attempt to answer problems related to the application of judicial powers in line with the constitution and Law Number 48 of 2009 concerning Judicial Power.

Based on research conducted by I Komang Agus Muliawan with the title Restorative Justice in Narcotic Crimes in Children. Restorative justice in handling and resolving narcotics crimes committed by children and efforts to resolve problems related to the use of diversion tactics in child narcotics crimes. The survey method used is a normative survey. The conclusion from the investigation is that the restorative justice approach in general has not run optimally in accordance with the provisions of Law Number 11 of 2012 concerning the juvenile justice system

One of the goals to be achieved from this framework of thought is the realization of a judicial power that is free, independent and independent but with freedom that is always based on the principles and legal values that have been mutually agreed on constitutionally.

Child Criminalization, Regarding punishment, (Hamzah, 2018) said that the problem of imposing a sentence or sentencing is very significant in criminal law and criminal justice. For him, sentencing or sentencing is the concretization or realization of criminal rules in laws that are abstract in nature. As for the notion that befalls which is defined as a child, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System stipulates that a child is anyone who has not reached the age of 18 years

Furthermore, regarding criminal imposition, in seeking appropriate punishment for a child, deeper study is needed, because a child must be seen as a legal subject who has not been able to realize the actions he has committed. This is because children are people who are not mature enough to think.

Narcotics Crime, In summary, narcotics crimes are referred to as acts related to narcotics that are prohibited by law and are subject to criminal penalties for these actions, which can be divided into 4 types, namely acts of possessing/conceiving, producing, trading, as well as the act of bringing/sending (Sunarso, 2019).

Benefit and Restorative Justice, the principle of expediency as one of the goals of law, is taught as one of the final goals of law, which if it can be stated simply is "the greatest happiness for as many people as possible". Whereas Law Number 11 of 2012 concerning the Juvenile Criminal Justice System stipulates that what is meant by restorative justice is the settlement of criminal acts by connecting perpetrators, victims, families of perpetrators/victims, and other related parties to jointly seek a fair solution by emphasizing restoration to its original condition, and not restitution (Bentham, 2020). Statistically, the Indonesian Child Protection Commission (KPAI) has created an increase in the involvement of children in black drug trafficking. Children continue to be frequently found as victims until couriers abuse these illicit objects. Meanwhile, in 2017, in a survey conducted by the Ministry of Health, it was stated that there were more than 22,000 drug problems in high school students' areas, 6,000 cases in junior high school students, and 3,000 problems for elementary school students (Detiknews, 2019). But at this time, based on the explanation from the KPAI Commissioner for Health, Siti Hikmawati, at the KPAI Office, Jalan Teuku Umar, Central Jakarta, Tuesday (6/2), if out of 87 million children with a maximum age of 18 years, it is known that there are 5.9 million who participate as drug addicts, among others, are 1.6 million children who function in trafficking activities (Kumparan, 2018)

Control and overcoming crime, especially narcotics crimes by children of the police, the police have a very central position and at the same time become a determinant of whether to proceed to the judicial process or with other informal actions. The authority to determine whether a child wants to be resolved through a formal to informal process, in this case the police apparatus has been equipped with a legal instrument in dealing with children as perpetrators of criminal acts called diversion.

With this diversion authority, law enforcement officials, especially the police, should be the initiator and facilitator of the prosecution of children in conflict with the law by appealing to all parties involving actors, victims, their parents, the local community, or the school to sit together in a dialogue meeting. settlement process using a restorative justice approach .approach.

However, lately there has been an increase in the abuse of narcotics being tried by children, especially in the city of Medan. Based on information the author has from the Medan City Police, in 2018 there was 1 (one) problem and 3 (three) children as defendants, on the contrary, from January to September 2016 there was 1 (one) problem and 2 (2) children as defendants and all of these problems have been P21 and delegated to the next judicial system.

Specifically for the problem of children as drug users, the police, prosecutors and judges have not all placed children as victims of narcotics. In the case of a child being confirmed and identified as a user, the highest sentence is still imprisonment and not action. The majority of children were convicted, 37% were sentenced to prison, 18% were sentenced to job training. There are 18% of children whose conclusions are returned to their parents, only 9% are cases where children are medically rehabilitated (Reform, 2019). Apart from that, the relevant discourse which has recently found more space in law enforcement reform in Indonesia is an attempt to answer problems related to the application of judicial powers in line with the constitution and Law No. 48 of 2009 concerning Judicial Power.

One of the objectives to be achieved from this frame of mind is the realization of a judicial power that is free, independent and independent but with freedom that is always based on legal principles and values that have been mutually agreed on constitutionally.

This illustrates a serious and fatal problem, in which the panel of judges can be seen as negligent in considering the position of the child as a defendant by not explaining the norms of the Juvenile Criminal Justice System Law in legal considerations until finally briefly concluding that the child perpetrator should be punished.

In fact, if the panel of judges is not negligent and observant in parsing the norms of the Juvenile Criminal Justice System Law in their considerations, the decision will have great potential to also accommodate the principal principles in law, especially the principle of benefit and the principle of restorative justice as also mandated by the Law. Juvenile Criminal Justice System itself.

Child Criminalization, Regarding punishment, (Hamzah, 2018) said that the problem of imposing a sentence or punishment is very significant in criminal law and criminal justice. For him, the imposition of a crime or sentencing is the concretization or realization of criminal regulations in laws which are something abstract. Meanwhile, for the description of befalling which is defined as a child, Law No. 11 of 2012 concerning the Juvenile Criminal Justice System stipulates that a child is any person who has not reached the age of 18 years.

Next, with regard to sentencing, in finding an appropriate punishment for a child, more in-depth scrutiny is needed, because a child must be viewed as a legal subject who has not been able to realize the actions he is carrying out. This is because children are people who are not mature enough to think.

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4 types, namely acts of possessing/conceiving, producing, trading, as well as the act of bringing/sending (Sunarso, 2019).

Not only that, narcotics crimes, which so far have been understood by citizens of the world, especially for Indonesian citizens, have been regulated in Law No. 35 of 2009, they are fully aware of the very unfavorable consequences that continue to criticize the survival of citizens' lives, especially for generations. young. This is caused by an atmosphere in which the problem of narcotics crimes continues to be rampant, which continues to increase every year and continues to be a universal concern for citizens.

Benefits and Restorative Justice, Thethe principle of expediency as one of the goals of law, is taught as one of the ultimate goals of law, which if it can be argued simply is "the greatest possible happiness for the greatest number of people." Whereas Law No. 11 of 2012 concerning the Juvenile Criminal Justice System regulates that what is interpreted by restorative justice is the resolution of criminal offenses by linking actors, victims, families of actors/victims, and other related parties to jointly seek a fair solution by emphasizes restoration to its original condition, and not retaliation (Bentham, 2020).

II. RESEARCH METHOD

In conducting this research, using the type of study that works Next is the type of normative legal studies (Ibrahim, 2018). If the investigator uses the source material law in further investigation is primary, secondary, or tertiary legal materials. The method of collecting legal materials used in further investigations is recording and documentation. Analysis statutory material is with apply the method of processing law materials systematically.

The research in this writing is normative juridical law research. According to Ibrahim, the type of normative juridical research is research focused on studying the application of rules or norms in positive law (Ibrahim, 2018). This study uses a statutory approach (statute approach) and a case approach (case approach). The statutory approach is used to find out all legal regulations, especially criminal law in Indonesia. The case approach aims to study the application of legal norms or rules in legal practice. Especially regarding cases that have been decided. The court decision was deliberately chosen to analyze as well as measure the accuracy of the judge regarding the legal position of the child as the defendant in his legal considerations. On the other hand, research using normative methods is also carried out through library research to obtain secondary data with materials in the form of books, articles, research results, and expert opinions related to the issues raised in this writing. In accordance with the information and data that has been obtained, it will be followed by qualitative analysis, which is one of the research principles that can provide results in the form of analytical descriptive data.

III. RESULT AND DISCUSSION

The SPPA Law is the result of the government's struggle to protect ABH's rights. The main reason for the importance of ABH to be protected: First because children are assets that will continue the nation's struggle, and then children are also part of society with their soft nature, therefore the government which is the highest authority in a country is obliged to protect and look after every citizen, without exception child.

One of the children's rights contained in Article 64 paragraph i of Law Number 35 of 2014 concerning Child Protection, namely avoiding publication of their identity. Then continued with Article 19 of the SPPA Law, that the identity of children in conflict with the law should be kept secret from various types of mass media coverage.

This means that from every series of juvenile criminal justice actions, from the stage of investigation to juvenile justice, the identity of the child must be kept secret. The identity of the child referred to in Article 19 of the SPPA Law includes, among others, the name of the child in conflict with the law

(ABH), the identity of the ABH's parents, the ABH's domicile address, face, and other things deemed necessary to be kept secret.

One of the information that is now easily accessible to the public is court decisions. This convenience is one manifestation of the Supreme Court's commitment to disclosure of information, so that the public knows about the cases examined and decided by the court. However, Article 2 Paragraph 4 of Law Number 14 of 2008 Concerning Public Information Disclosure limits the public in obtaining information, that is, information that is exempt cannot be given to the public, that information that is exempt for the public is information that is indeed confidential in accordance with laws, decency and public interest based on examination of the consequences that arise if the information is submitted to the public, and has been carefully considered that concealing information from the public can protect the greater interest of disclosing it or vice versa.

Based on SK KMA Number: 1-144/KMA/SK/I/2011 Concerning Guidelines for Information Services in Court, there is some court information that must be obscured before providing copies to the public either through requests or through court websites, such as decisions of the Supreme Court. The obligation of the information officer at court before handing over a copy of the decision to the public or posting it on the court's website is to obscure some of the decision information relating to child cases, namely information that can reveal the identities of the litigants such as the case number in the decision, and also obscure the identities victim, defendant or convict including name and alias, address, occupation, place of work, as well as school or educational institution, identity of the employee concerned.

In this case, the Sibuhuan District Court should realize Article 19 of the SPPA Law, so that according to SK KMA Number: 1-144/KMA/I/2011 Concerning Guidelines for Information Services in Courts, there should be some obfuscation of information in decisions that must be made by Court Information Officers. Sibuhuan District, before being given to the public, namely regarding the identity of the child of the perpetrator of the crime and, both directly and before being included on the website of the Sibuhuan District Court, and the Website of the Supreme Court. Overview of Punishment Against Children.

It can be seen that children as perpetrators and victims of criminal acts have similar rights. Differences in the granting of rights to perpetrators can be seen from Decision No. 10/Pid.Sus-Anak/2018/PN.K the confidentiality of the child's identity as the perpetrator of a crime, where the child is the perpetrator in Decision No. 10/Pid.Sus-Anak/2018/PN.K the identity is not disguised. The difference between the cases of the two decisions is Decision No. 10/Pid.Sus-Anak/2018/PN.K is a case of narcotics abuse and Decision Number 6/PID.Sus Anak/2017/PT.MDN is a case of theft with violence, based on the table above it can be seen that only cases of sexual harassment were receive confidentiality of identity, even though the juvenile court is closed to the public, in other words, not only that the trial may not be attended by parties who are not interested (not related to the case), but the main essence is that the identity of the children in the trial is protected. In other words, in other than sexual harassment cases, the identity of the child who is in conflict with the law should remain a secret. This is regulated in Article 3 of Law no. 11 of 2012 letter i which reads, every child in the criminal justice process has the right not to publish his identity, which the author has explained before.

Based on the author's observation, there are still many decisions that can be downloaded on the decision directory website whose identities are not kept secret in criminal cases involving children as subjects who are in conflict with the law (other than cases of sexual harassment). Meanwhile, children as victims also get similar rights, the difference is the same as children as perpetrators mentioned above, namely regarding confidentiality of identity.

Based on court decision No. 10/PidSus.Anak/2018/PN Kdl For the sake of Justice Based on Belief in the One and Only God, the Kendal District Court which examined and tried criminal cases of children with ordinary examination procedures at the first level rendered the following decisions in the case of children: Full name Place of birth Age/date of birth Type gender Nationality Place of

residence Religion Occupation Child detained by: ALDI DIANTORO alias PAOX = Bin SUERMAN; Kendal; 18 Years/14 September 2000; Male; Indonesian; Dukuh Ngelo RT 011 RW 0004 Desa. The defendant's actions are regulated and punishable by punishment in Article 363 paragraph (1) 4.5 of the Criminal Code. Considering, that on this indictment the child understands the contents and intent of the indictment and on the indictment both the child and the child's legal adviser do not file objections/exceptions; Page 4 of 14 Decision Number 10/PidSus.Anak/2018/PN kdl Considering, that to prove his indictment the Public Prosecutor has submitted witnesses. M.H., each Page 13 of 14 Decision Number 10/PidSus.Anak/2018/PN kdl as a Member Judge, which was pronounced in an open-to-public hearing on Thursday, October 11 2018 also by the Chief Judge accompanied by the Member Judges, assisted by KARLEN SITOPU, S.H., M.H., Substitute Registrar at the Kendal District Court, and attended by DESTY SETYO ARIMBI, S.H

Enforcement of criminal law for children often creates debate, because this issue has significant consequences either for behavior or stereotypes in social life and for the child concerned as well. But through Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, which formally came into effect on July 30, 2014, law enforcement

Next, we can see the protection of children's rights in Indonesia in Law No.4 of 1979 concerning child welfare which concurrently Article 2, paragraph 3 and paragraph 4, Law of the Republic of Indonesia No.4 of 1979, explains child welfare which reads as follows: "a child has the right to care and protection, both during pregnancy and after birth. The child has the right to protections against the environment that can harm or hinder normal growth and development. These two paragraphs clearly state and encourage the need for child protection in the framework of seeking child welfare and fair treatment of children (Gosita, 2020).

Criminal law tends to have nuances that are more protective and nurturing for children, when looking at the comparison with Law No. 3 of 1997 concerning Juvenile Justice which no longer has relevance due to the fact that it is not compatible with changing times.

Law No. 11 of 2012 concerning the Juvenile Criminal Justice System is guided by a double track system. The double track system is a 2-way system which not only controls criminal sanctions but also controls actions. With the implementation of a two-track system, the sanctions imposed would better reflect justice, both for actors, victims, and residents (Sutatiek, 2019). Therefore, based on the 2 way system, the judge can determine the appropriate and appropriate punishment for children who have problems with the law to account for.

The implementation of the criminal justice system for children as stipulated in the Juvenile Criminal Justice System Act is a specific criterion that overrides the procedures for imposing punishments for those who commit criminal acts. This is caused by the fact that criminal punishment that is commonly carried out in accordance with the Criminal Code often does not educate children to make them better human beings, but instead increases the child's bad condition.

In normative thinking, setting a child's age limit can give rise to legal consequences that are laden with cases involving the obligations and rights of children. Therefore, the formulation of norms affecting children in many laws does not elaborate on the definition of the concept of children, but the formulation of norms regarding restrictions on certain actions, to certain goals (Sambas, 2019). It is also important to explain that determining the age limit in relation to criminal responsibility that can be transferred before a trial is 12 years to 18 years. This matter is in accordance with the requirements of the Juvenile Criminal Justice System Law and also the Constitutional Court Verdict No 1/PUU-VIII/2010. Furthermore, the requirements of Article 69 paragraph (2) of the Juvenile Criminal Justice System Law control that children who are not yet 14 years old years can only be given action sanctions, and not criminal sanctions. SoSo, a simple interpretation that can be drawn from these requirements is that children aged 12 to 13 years can only be subject to action sanctions, whereas children aged 14 to 18 years can be subject to criminal sanctions in addition to the option of action sanctions.

There are also children who are not yet 12 years old, until the norms of Article 21 paragraph (1) of the Juvenile Criminal Justice System Law control that: a professional social worker makes a decision to: hand it back to parents/guardians or enroll it in learning, coaching and mentoring programs in institutions dealing with the field of social welfare, both at the central and regional levels, for a maximum of 6 months.” Historically, the legal norms that control the imposition of criminal sanctions on children or people who are not aged can actually be found easily in the oldest set of criminal requirements in the Republic of Indonesia.

Based on Article 45 of the Criminal Code, it is regulated that what a judge can determine in the case of prosecution of a child who is not old enough (*minderjarig*) for committing a criminal act before the age of 16 is to order the guilty person to be returned to his parents, guardian or carer without any punishment. or order that the guilty be handed over to the government without any punishment, namely if the action is one of the crimes or violations referred to in Articles 489, 490, 492, 496, 497, 503, 505, 514, 517-519, 526, 532, 536, and 540 and has not passed 2 years since being found guilty of committing one of the crimes or violations mentioned above, and the verdict is permanent; or let alone impose a penalty.

The provisions above provide an explanation that against the child of the perpetrator of a crime, the judge is given the authority to determine his choice in trying the child in question. The judge can choose to impose a sentence on the child, or choose to hand over the child in question to the government or his guardian (Hambali, 2019).

Furthermore, in Article 47 of the Criminal Code the forms of criminal threats for persons under the age of 16 include the following: If the judge imposes a sentence, up to the maximum principal sentence for the criminal act is reduced by one third. If the act is a crime punishable by death or life imprisonment, up to a maximum imprisonment of 15 years. The bonus punishment referred to in Article 10 sub b, numbers 1 and 3, cannot be imposed on a recalcitrant child who is 12 years old and commits a crime as defined in Article 1 point 2 letter a Law No. 3 of 1997 which is punishable by punishment dead or for life.

In the development of the latest legal norms, the Law on the Juvenile Criminal Justice System makes certain sanctions and does not explore the criminal requirements in Article 10 of the Criminal Code. In Article 71 paragraph (1) of the Law on the Juvenile Criminal Justice System, the main punishments that can be imposed on children are: warning sentences, sentences with provisions, job training, coaching within institutions, and imprisonment. There is also an optimal term of imprisonment that can be imposed on a child who commits a crime based on Article 79 paragraph (2) of the Law on the Juvenile Criminal Justice System which is a very long half of the maximum sentence of imprisonment for an aged person.

In addition, as an alternative to the abolition of capital punishment or life imprisonment, the Law on the Juvenile Criminal Justice System stipulates that the criminal sanction that can be imposed on the child concerned is a maximum of 10 years in prison. Also, a new type of punishment in this law is supervision punishment where this criminal sanction is not included in the Criminal Code. On the other hand, the bonus penalty that is threatened to children who commit crimes is the deprivation of profits derived from criminal acts, or the fulfillment of customary obligations (Dewi et al., 2021).

Specially affects children under the age of 12 who commit or are suspected of committing a crime, so that investigators, social counselors, and professional social workers make a decision to: handing back the child which means to the parent/guardian; or enroll them in a coaching program at an institution dealing with the social welfare sector, a very long time of 6 months (Iman, 2021).

As a bonus, for children who have reached the age of 12 years or more but were not yet 14 years old when they committed a crime, they can only be subject to action. This matter complies with the requirements of Article 69 paragraph (2) of the Law on the Juvenile Criminal Justice System (Widodo, 2019).

1. Review of Narcotics Crime

The scope of criminal law includes 3 conditions, namely criminal acts, accountability, and punishment. The criminal requirements contained in Law No. 35 of 2009 concerning Narcotics are formulated in Chapter XV of Criminal Terms Article 111 to Article 148. Law No. 35 of 2009 concerning Narcotics, there are 4 categorizations of unlawful acts that are prohibited by law and may be subject to criminal sanctions, namely: The initial type, namely acts in the form of possessing, storing, controlling or providing narcotics and narcotic precursors; The second type is acts in the form of producing, importing, exporting or distributing narcotics and narcotics precursors; The third type, are acts in the form of offering to sell, sell, buy, receive, act as intermediaries in buying and selling, changing, or handing over narcotics and narcotics precursors; The fourth type is acts in the form of carrying, sending, transporting or transiting narcotics and narcotics precursors (Sunarso, 2019). Law No. 35 of 2009 concerning Narcotics has controlled the types of sanctions given to narcotics crimes, including: As a crime for abusers or as victims of narcotics abuse, these abusers must undergo medical rehabilitation and social rehabilitation. The crime of a narcotics addict who does not notify himself is punishable by imprisonment for up to 6 months (Sudanto, 2020).

In addition, Article 136 Law No. 35 of 2009 distributes sanctions in the form of narcotics and narcotic precursors and the results obtained from narcotics crimes, whether movable or immovable or tangible or intangible relics and some goods or equipment used for Narcotics crimes are confiscated for the country. In contrast to Article 148, if the fines stipulated in this law are not paid by the perpetrators of narcotics crimes, then the actor is sentenced to a maximum of 2 years in prison as a substitute for a fine that cannot be paid (Hikmawati, 2021).

2. Discussion

Restorative justice or can also be interpreted as justice that restores is an approach to criminal justice that emphasizes the recovery of victims and communities rather than being oriented only to punish the perpetrators of criminal acts.

In terms of restorative justice ,justice, the Law on the Juvenile Criminal Justice System regulates that the totality of the juvenile justice system must prioritize a restorative justice approach at every level of justice, starting from investigative sessions, prosecutions, trials, to the process of coaching, mentoring, supervision, and assistance when a child takes execution of the crime/action. Not only that, the restorative justice approach is also a reference for fostering children after serving a criminal/action period.

The main goal of the restorative justice approach for Aviandari& the achievement of recovery, both the victim, the perpetrator or the social order which had stalled due to the actions carried out by the perpetrator of the crime, therefore solving cases is focused on how to restore suffering, damage or losses that have arisen, not revenge or taking over suffering, destruction or loss of the victim with the suffering (criminalization) of the actor (Septiana, 2018).

Regarding children who are in conflict with the law, the Agreement on the Rights of the Child in Article 37 letter a provides guarantees that children may not receive torture or cruel, inhuman, and degrading treatment. More than that, Article 40 of this agreement also emphasizes that the age of the child must be taken into consideration, and any plans for what action will be imposed on children must urge them to be able to reintegrate into society.

For actors who are still in their growth phase, a restorative justice approach is useful in preventing actors from the bad consequences of imprisonment. Not only that, the perpetrators also want to be free from the psychological pressure of the process of interrogating the police, prosecutors and judges in the area of the court of law.

In line with the description above, connected with Verdict No. 10/Pid. Sus-Children/ 2018/PN. Kdi, the verdict taken by the panel of judges cannot be assumed to have practiced the principle of

restorative justice. This is because the panel of judges in their legal considerations actually produced an argument without supporting ideas and without a further and more detailed description of the argument. There is also an argument that is interpreted as an argument about 388 Judicial Daily Vol. 13 Number. 3 December 2020: 373-390 aggravating matters, in which FJ is considered a person who committed acts that disturbed the younger generation and the future of the nation. This comment actually tends to be misleading when it is explored, because this idea is not accompanied by explanatory or supporting ideas. Precisely this idea makes the suspect who is still at the bottom of the age stagnate psychologically and his life.

Even though basically, it is actually the suspects who are still at the bottom of this age who have become the younger generation who are victims of real narcotics abuse actors.

Apart from the debate about the issue of violations of the Narcotics Law which are increasingly becoming a frightening crime for the community, child actors should be given their rights to obtain recovery as aspired to in the principle of restorative justice. However, in reality, in Verdict No. 10/Pid. Sus-Children/ 2018/ PN. Then, the child actually experienced significant difficulties in recovering mentally and psychologically because the panel of judges sentenced him to one year and 6 months in prison. Supposedly, every possible step in order to avoid the unfavorable consequences that arise from the criminal sanction of depriving a child of independence must be taken, as well as by the judge if the child is already in the criminal justice system. This is emphasized in The Tokyo Rules (UN Standard Minimum Rules for Non-Custodial Measures), which urge citizen involvement in the criminal justice system. Where non-imprisonment measures must be part of the depenalization and decriminalization movement and reintegration efforts within society, so that the public can participate in efforts to prevent the recurrence of criminal acts (Septiana, 2018).

This is also mandated by the Law on the Juvenile Criminal Justice System where law enforcers, in this case universal prosecutors and especially judges, must always adhere to the principle that imprisonment for children is only used as a last resort.

IV. CONCLUSION

Based on the above review, it can be concluded that the panel of judges in Verdict Number 10/Pid. Sus-Children/ 2018/ PN. KDI has not really thought deeply about implementing the principles of benefit and restorative justice. These considerations should be a serious concern for each judge when dealing with children as defendants in any matter. Therefore, it is very important for judges to be more thorough in studying the conditions and circumstances of children who become suspects so that they can produce decisions that are more useful and can guarantee recovery for the parties in a case.

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