

FORMULATION OF POLICY ON THE IMPLEMENTATION OF CRIMINAL PUNISHMENT SANCTIONS AND REHABILITATION AGAINST CHILDREN AS DRUG ABUSE PERPETRATORS

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ABSTRACT

The study concludes that the application of rehabilitation for children involved in narcotics abuse should prioritize child protection. Based on various court rulings, children who misuse narcotics and become involved in criminal activities should be seen as victims of their actions, not perpetrators who harm others. Therefore, rather than imprisonment, rehabilitation is the appropriate solution as it prevents harm and better protects the child's future. Rehabilitation consists of medical rehabilitation to address addiction through treatment in designated facilities, and social rehabilitation to restore physical, mental, and social well-being in an integrated manner. This approach is considered the most humane and supportive for the child's recovery. Furthermore, there is a need to evaluate and refine rehabilitation policies to break the cycle of narcotics abuse among children effectively. The goal is to create a policy framework that provides the most appropriate sanctions, promoting effective rehabilitation and preventing recidivism, focusing on legal and social reintegration.

Keywords: *Formulation; Child Rehabilitation; Narcotics Abusers.*

INTRODUCTION

Initially, narcotics were used for medicinal purposes to help treat illnesses. Since prehistoric times, humans have been familiar with psychoactive substances, including narcotics, psychotropics, alcohol, and other intoxicating substances (Harefa, 2017). They discovered the pharmacological effects of various plants, such as leaves, fruits, roots, and flowers (Maskur, 2012a). Historically, cannabis was used as early as 2700 BC, and the ancient Egyptians used opium to calm those who were grieving. While these substances were used for medicinal purposes, they were also often consumed for pleasure (Maruf, 2018). The Sumerians were the first to recognize opium, which was used as a painkiller and sleep aid. Hippocrates, a medical expert, used opium to alleviate pain, particularly during surgery. Alexander the Great of Persia (330 BC) introduced opium to India, where it was used to treat diarrhea and sexual diseases. In 1874, the researcher C.R. Wright synthesized heroin by heating morphine. During the 19th century, the trade of opium expanded rapidly, especially in the United States, and morphine was used to manage pain for soldiers injured in war (S, 2017). The term narcotics comes from the Greek word "narke," meaning numbness or loss of sensation. In the Dutch East Indies, the use of opium was regulated starting in 1894, with the Dutch government monopolizing its trade (Moore, 2020). Following this, an international agreement was established in the early 20th century to regulate the trade of opium, which was only allowed for medical purposes. Despite this, opium continued to be sold freely in the Dutch East Indies until local efforts to curb its distribution were initiated in 1913. After Indonesia's independence,

the government began recognizing the growing threat of narcotics abuse, particularly among the youth, leading to the declaration of a narcotics emergency in 1971 by President Soeharto (S, 2021).

As narcotics abuse continued to rise, rehabilitation became a critical component of addressing the issue. The government implemented various rehabilitation programs, such as the Therapeutic Community (TC), which was based on a group approach with structured norms and values. This approach proved effective in helping narcotics users, who were often stigmatized as "societal trash," recover (Alfitra, 2018; Arliman, 2020; Kibtyah, 2015; S, 2018; Subantara, 2020). Rehabilitation strategies rooted in learning theories, such as classical conditioning and operant conditioning, became prominent in the field, prioritizing the residents' (rehabilitation patients') ability to learn and take responsibility. Today, rehabilitation institutions are widespread across Indonesia, with public and private rehabilitation centers offering comprehensive services. Rehabilitation has become an essential pillar in efforts to help children who have fallen into narcotics abuse (Cahyaningtyas, 2016; Sinaga, 2018; Siti Hidayatun, 2020; Sularto, 2017). Therefore, the formulation of effective rehabilitation policies for children is crucial. These policies should focus on the child's best interests, recovery from addiction, and reintegration into society. Narcotics abuse is considered a serious criminal offense under Narcotics Law No. 35/2009, which recognizes that narcotics users are also victims in need of medical assistance. The law mandates that both narcotics addicts and victims undergo medical and social rehabilitation. However, there remains a conflict between rehabilitation and punishment, as seen in Article 127, where the law seemingly contradicts itself by allowing rehabilitation and imprisonment. Rehabilitation is intended to help individuals overcome addiction and reintegrate into society, providing a more constructive approach than imprisonment, which has detrimental effects on a child's physical, mental, and social development (Maskur, 2012b; Novitasari, 2017; Rahayu, 2015; Wahyudi, 2021). Over the years, the number of narcotics abuse cases has continued to rise, and strict regulation is necessary to minimize these incidents further. Between 2020 and 2024, Indonesia saw 264,000 narcotics-related cases, but with tighter enforcement, the number decreased by approximately 45,000 cases in 2024.

Initially, the use of narcotics was limited to the medical field, but today their use has increased, especially among children, teenagers, and adults. The rampant illegal circulation and abuse of narcotics is recognized as a severe threat to the nation. Narcotics-related problems have already damaged various layers of society. Children, teenagers, and adults can fall victim to narcotic abuse. According to Article 54 of the Narcotics Law No. 35/2009, narcotics addicts and victims of narcotics abuse are required to undergo medical and social rehabilitation. This is further regulated by the Joint Regulation No. 01/2024 concerning the handling of narcotics addicts and victims of narcotics abuse in rehabilitation institutions. Furthermore, the relationship between children and narcotics is addressed in Article 67 of the Child Protection Law No. 35/2014, which emphasizes special protection for children who are victims of narcotics abuse. However, the implementation of rehabilitation for narcotics abusers, particularly minors, does not align with Narcotics Law No. 35/2009 and the government's policies, which advocate for the rehabilitation of minors involved in narcotics abuse.

Unfortunately, most juvenile narcotics abusers are still imprisoned rather than rehabilitated. Children abusing narcotics face several factors contributing to this contemporary issue, which necessitates that law enforcement address narcotics abuse cases.

Narcotic abuse among children is a result of their limited understanding of the consequences of illegal drug use. The presence of rehabilitation programs offers protection to victims of narcotics abuse, providing them with a chance to recover and reintegrate into society. Rehabilitation is also a manifestation of the "double track system" in criminal law, which combines punitive sanctions with rehabilitative measures. This system aims to protect society and maintain social order while ensuring the rehabilitation of offenders. Rehabilitation plays a crucial role in treating narcotics addiction, especially as the number of juvenile narcotics abusers continues to rise. It is considered a more humane approach, offering positive benefits and assisting individuals in overcoming addiction. Rehabilitation is also a proportional choice to avoid the application of punitive sanctions that serve merely as punishment. Instead, rehabilitation is the best option for safeguarding the child's future. In society, children who abuse narcotics and undergo juvenile justice processes are often sentenced to imprisonment. However, imprisonment is the least desirable punishment for juveniles due to its negative impact on their physical, mental, and social development. Narcotics abusers are classified into two categories: addicts, who are physically and psychologically dependent on narcotics, and victims, who are coerced or deceived into using narcotics. According to Narcotics Law No. 35/2009, both addicts and victims of narcotics abuse must undergo rehabilitation, as stated in Article 54. Yet, there is a conflict in the norms concerning whether narcotics abusers or victims should be incarcerated or rehabilitated, particularly under Article 127, which contains contradictory provisions. In principle, the law requires rehabilitation rather than imprisonment for narcotics abusers and victims. Rehabilitation helps individuals break free from addiction and improves their behavior by providing training and rehabilitation programs. The current prison sentences for juvenile narcotics offenders are inconsistent with the rehabilitation focus, leading to negative psychological impacts on the children involved. Therefore, rehabilitation should be prioritized to address the addiction issue effectively and in the best interest of the child.

The rehabilitation decisions for juvenile narcotics abusers referenced in this dissertation are as follows: In the Sawahlunto District Court Decision No. 6/Pid.Sus-Anak/2018/PN Swl, the defendant, Lana Maulana alias Cana, was found guilty of narcotics abuse for personal use. The judge sentenced the defendant to three months in a Juvenile Correctional Facility (LPKA) in Tanjung Pati, Lima Puluh Kota. This decision emphasized avoiding harsh penalties due to the defendant's young age and the importance of providing a bright future. In the Sleman District Court Decision No. X/Pid.Sus-Anak/2020/PN Smn, the defendant was convicted of narcotics abuse for personal use and was sentenced to one year of rehabilitation at the Balai Perlindungan dan Rehabilitasi Sosial Remaja (BPRSR) in Yogyakarta (Distia, 2013; Haerana, 2019; Hawi, 2018; Hutahean, 2013; Russel, 2013; Supyan, 2013). The defendant violated various laws related to narcotics and child protection. In the Curup District Court Decision No. 00/Pid.Sus-Anak/2022/PN Crp, two defendants were convicted of possessing narcotics illegally and were sentenced to three years and six months in LPKA, along with mandatory

vocational training for three months. Finally, in the Siak Sri Indrapura District Court Decision No. X/Pid.Sus-Anak/2024/PN Sak, the defendant was convicted of illegal possession of narcotics and sentenced to 20 months of rehabilitation and vocational training. These decisions collectively highlight the application of legal provisions regarding juvenile drug abuse and rehabilitation, in line with various narcotics laws and child protection statutes.

Based on the background described, the problem formulation in this study concerns the policy formulation on rehabilitation sentencing for children who abuse narcotics, focusing on how judges apply considerations when imposing rehabilitation sanctions, the implementation of the rehabilitation sanction system for these children, and how the ideal concept is applied in the formulation of such policies. The assumptions underlying this dissertation are based on the application of Article 54 of Narcotics Law No. 35/2009, which mandates that narcotics addicts and victims of narcotics abuse undergo both medical and social rehabilitation, further clarified by Government Regulation No. 25/2011 on mandatory reporting for narcotics addicts. It also addresses the sanctions of rehabilitation for narcotics abusers under Article 127 of the Narcotics Law, emphasizing that imprisonment should be avoided for minors in favor of rehabilitation to protect their physical, mental, and social development. The Juvenile Criminal Justice System Law (No. 11/2012) underscores that sentences for minors must consider their conditions and future prospects, aiming for rehabilitation in the child's best interests. The research examines judicial considerations in sentencing rehabilitation, the implementation of the rehabilitation sanction system, and the application of an ideal concept in rehabilitation policy formulation. This study is expected to contribute to criminal law knowledge, particularly on rehabilitation sentencing for narcotics-abusing children, while also providing recommendations to relevant institutions such as BNN, police, prosecutors, government bodies, and legal practitioners on the legal framework of rehabilitation sentencing policies.

METHOD

This study employs a normative juridical research method. The activities include the inventory, identification, classification, systematization, interpretation, and construction of legal materials. According to Ronny Hanitijo Soemitro, normative legal research involves the inventory of positive law, the study of legal principles, legal systematics, and vertical and horizontal synchronization. Therefore, this research involves analyzing primary, secondary, and tertiary legal materials as references in discussing and analyzing the issues. Additionally, this dissertation incorporates field research, which aims to intensively study the background, current conditions, and social interactions within a social unit, whether it involves individuals, groups, institutions, or communities.

The research approach is based on the analysis of the Narcotics Law, the Child Protection Law, the Juvenile Justice System Law, and the Indonesian Penal Code (KUHP). It aims to examine the legal certainty of rehabilitation and the legal accountability of children involved in narcotics abuse in determining policy direction regarding legal issues. The findings of this study indicate that no authority can be exercised without limits; thus, clear restrictions exist in accordance with the regulatory concept of child rehabilitation in narcotics abuse cases.

The data in this dissertation were collected through both primary and secondary sources. Primary data were obtained directly from original sources, either individuals or groups, specifically to answer the research questions. The researcher collected this data through surveys and observations. Surveys were conducted using oral and written questions in interviews with children who had undergone rehabilitation for drug abuse. Observations were carried out by visiting rehabilitation centers to directly observe the activities and collect information based on real events. Meanwhile, secondary data were obtained indirectly through intermediary sources such as documents, archives, and historical records. These include court rulings on child narcotics offenders and logbooks that were accessed with official permission to record daily activities.

The data review in this research serves several functions, including evaluating rehabilitation sentencing policies for children who abuse narcotics, supporting research and community service related to these policies, and enhancing professional capacity in the legal field. The collected data were analyzed qualitatively using normative and empirical juridical approaches. Qualitative analysis here refers to interpretation that is not based on numerical values but on descriptive explanations. The normative juridical approach means that the data were examined based on legal norms outlined in relevant legislation. Data gathering from respondents began with checking the interview records to align with the research needs, followed by reviewing books, regulations, statutes, and previous research reports to support the document analysis.

RESULT AND DISCUSSION

A. Application of Judge's Considerations in Imposing Rehabilitation Sanctions on Children as Drug Abuse Offenders

The application of the judge's considerations in imposing prison sentences and rehabilitation decisions on child drug offenders in this dissertation research includes the following cases:

1. In the Decision of Sawahlunto District Court No. 6/Pid.Sus-Anak/2018/PN Swl.

The actions of the defendant in the Sawahlunto District Court Decision No. 6/Pid.Sus-Anak/2018/PN Swl. The judge declared that the defendant, a child named Lana Maulana alias Cana, was legally and convincingly proven guilty of the criminal offense "participating in the abuse of Narcotics Class I for personal use." The judge sentenced the child defendant Lana Maulana alias Cana to imprisonment for 3 (three) months in the Special Child Rehabilitation Institution (LPKA) Tanjung Pati, Kabupaten Lima Puluh Kota.

The defendant, Lana Maulana alias Cana, violated Article 127 paragraph (1) letter a of Law No. 35 of 2009 on Narcotics in conjunction with Article 55 paragraph (1) of the Criminal Code (KUHP), Law No. 8 of 1981 on the Criminal Procedure Code, and other relevant regulations. From the above considerations, it is evident that the judge in this case avoided imposing a heavy sentence, considering the defendant's young age and the fact that he is the nation's future generation, who deserves a bright future.

2. In the Decision of the Sleman District Court No. X/Pid.Sus-Anak/2020/PN Smn.

The judge declared that the defendant, a child, was legally and convincingly proven guilty of committing the criminal act of narcotic abuse for personal use. The judge imposed a rehabilitation sentence in a social protection and rehabilitation institution for the child defendant, specifically rehabilitation at the Balai Perlindungan dan Rehabilitasi Sosial Remaja (BPRSR) D.I. Yogyakarta in Sleman for 1 (one) year.

The defendant violated Article 127 paragraph (1) letter a of Law No. 35 of 2009 on Narcotics, Law No. 35 of 2014 on amendments to Law No. 23 of 2002 on Child Protection, Law No. 11 of 2012 on the Juvenile Criminal Justice System, Law No. 8 of 1981 on the Criminal Procedure Code, and other relevant regulations.

3. In the Decision of the Curup District Court No. 00/Pid.Sus-Anak/2022/PN Crp.

The judge declared that both defendants, Child I and Child II, were legally and convincingly proven guilty of the offense of "illegally possessing, storing, controlling, or providing Narcotics Class I non-plants," as stated in the second alternative charge. The judge sentenced both Child I and Child II to imprisonment for 3 (three) years and 6 (six) months at the Special Child Rehabilitation Institution (LPKA) Class II Bengkulu. Additionally, both defendants were ordered to undergo job training for 3 (three) months.

The defendants violated Article 112 paragraph (2) in conjunction with Article 132 paragraph (1) and Article 148 of Law No. 35 of 2009 on Narcotics, Law No. 11 of 2012 on the Juvenile Criminal Justice System, Law No. 8 of 1981 on the Criminal Procedure Code, and other relevant regulations.

4. In the Decision of Siak Sri Indrapura District Court No. X/Pid.Sus-Anak/2024/PN Sak.

The judge declared that the child defendant was legally and convincingly proven guilty of the offense of unlawfully possessing Narcotics Class I non-plants, as stated in the second alternative charge. The judge sentenced the child defendant to rehabilitation in an institution for 20 (twenty) months at the Sentra Abiseka Pekanbaru and mandatory job training for 3 (three) months at the same institution.

The defendant violated Article 112 paragraph (1) of Law No. 35 of 2009 on Narcotics in conjunction with Article 1 number 3 of Law No. 11 of 2012 on the Juvenile Criminal Justice System, Law No. 8 of 1981 on the Criminal Procedure Code (KUHP), and other relevant regulations.

B. Implementation of Rehabilitation Sanctions for Children as Drug Offenders

In the implementation of rehabilitation sanctions for child drug offenders in this study, the author examined several court decisions and the considerations of judges in imposing rehabilitation sanctions on children as drug offenders in the following District Court Decisions:

1. In the Decision No. 6/Pid.Sus-Anak/2018/PN Swl.¹⁷⁹

The actions committed by the defendant in the Padang District Court Decision No. 6/Pid.Sus-Anak/2018/PN Swl. The defendant L was found guilty beyond a

reasonable doubt of committing the criminal offense of "jointly and unlawfully using Narcotics Class I for personal use."

The case in this study occurred on Thursday, August 2, 2018, at around 9:00 PM at the SPBU (Public Fuel Station) in Muaro Kalaban Village, Silungkang District, Sawahlunto City. Initially, the defendant and the witness, M. Rubby Yanto alias Ukok, were hanging out with friends playing games at a friend's house in Solok City when an unknown man approached and asked for help to push his broken motorcycle. After agreeing to help in exchange for a pack of cigarettes, the defendant, the witness, and the unknown man, who was called "Uda," left for Muaro Kalaban by motorcycle. Along the way, Uda stopped at a shop to buy cigarettes, offering one cigarette to both the defendant and the witness. Later, Uda instructed the defendant to hide the cigarette pack in his pants. Upon reaching the fuel station, Uda told them to wait while he went to meet a friend. While waiting, the defendant was suddenly grabbed by an unknown person, and the witness ran after hearing a gunshot. The witness returned and was apprehended by the police, who then questioned the defendant about the whereabouts of his belongings. The police searched the defendant and found a cigarette pack containing dried cannabis, which Uda had given to him earlier. When asked, the defendant claimed the pack belonged to Uda, who had entrusted it to him earlier in Solok, before Uda left them to meet his friend.

The defendant knew the package contained cannabis but stated that he had never used it and was unaware that the package given to him contained dried cannabis. The defendant had previously used cannabis, but the cannabis found during the arrest was not used by him. He explained that he did not know what was inside the cigarette pack and had only agreed to help the unknown man without realizing it contained illegal substances. Despite this, the police found the package of cannabis and arrested the defendant, while Uda, who had left them, was not present at the time of the arrest. The incident highlights the defendant's unintentional involvement in narcotics possession, as he had no prior knowledge of the contents of the package entrusted to him by Uda.

The defendant never stated that the small package of dried cannabis found during the arrest would be used with the witness, M. Rubby Yanto alias Ukok. The defendant had previously used cannabis with the witness, most recently in April 2018. The defendant began using cannabis in 2016 and knew how to consume it by smoking it like a regular cigarette. The police conducted a search of the witness, M. Rubby Yanto alias Ukok, but found no evidence. The defendant confirmed that the evidence in this case, including a pair of blue jeans, a white and brown Xiaomi phone, and a small package of dried cannabis inside a Surya cigarette pack, belonged to the unknown person referred to as "Uda." The defendant agreed to hold the cigarette pack for Uda because he feared the cigarettes would break if Uda kept them. The defendant did not remember to return the pack when Uda was about to leave him at the SPBU. A urine test conducted at the police station showed that the defendant tested negative for cannabis use.

The defendant admitted that he had used cannabis three times with the witness, M. Rubby Yanto alias Ukok. The first instance occurred in 2016 near Bareh Solok

Terminal, the second in 2017 near the drainage behind a house in Kandang Aur, Lubuk Sikarah, Solok City, and the third in April 2018 along the road to Batu Gadang in Solok. The defendant stated that he never saw cannabis in the cigarette pack given by Uda, as he only took a cigarette from the pack, which was closed. The defendant also expressed regret for using cannabis and clarified that neither he nor the witness had permission to engage in activities involving narcotics.

The defendant and the witness, M. Rubby Yanto alias Ukok, used cannabis by smoking it in a cigarette form, which had been mixed with the substance. The cannabis was given to them by a friend named IL in the form of a cigarette. After using the cannabis, the defendant felt dizzy. The defendant agreed to join the witness and Uda, an unknown person, in Muaro Kalaban out of concern for the witness's safety. On the way to Muaro Kalaban, Uda did not mention anything about cannabis, and both the defendant and the witness did not suspect him. During the journey, Uda was often on his phone, but neither the defendant nor the witness had his phone number. After the legal process concluded, the defendant decided not to interact with any strangers again. At the trial, the defendant's mother expressed disagreement with the prosecutor's request for imprisonment, hoping instead that the defendant would be placed in a Juvenile Correctional Institution. The prosecutor argued that the defendant had committed a criminal act, meeting the elements of narcotics abuse under Indonesian law.

The court considered several elements in the case, including the defendant's awareness and intent. According to the Narcotics Law No. 35/2009, the defendant used narcotics without permission, which was a criminal act under the law. The court emphasized the defendant's deliberate actions, highlighting that the defendant had knowingly used narcotics for personal use. Consequently, the judge sentenced the defendant to three months of imprisonment in a Juvenile Correctional Institution, with the time already spent in detention being deducted from the sentence. The judge also affirmed that the defendant was mentally and physically capable of being held accountable for his actions. The legal process followed was in line with the applicable laws, including Article 127 (1) of the Narcotics Law and Article 55 (1) of the Penal Code, which address the illegal use of narcotics.

The judge's consideration in sentencing the defendant is both juridical and non-juridical. The juridical consideration consists of the evidence, the prosecutor's indictment, the prosecutor's demand, and the exhibits presented in court. The non-juridical considerations include both aggravating and mitigating factors. Judges are officials authorized by law to adjudicate, process, and determine the guilt or innocence of an individual's actions. This authority falls under the judiciary's jurisdiction, meaning that only the judicial system has the power to hear and adjudicate cases. The judge's decision-making process involves two main types of considerations: juridical and non-juridical.

Juridical Considerations: Juridical considerations are based on the facts presented during the trial and what the law requires to be included in the verdict. These include the prosecutor's indictment, the prosecutor's demand for a 4-month prison

sentence for the defendant, reduced by the time already spent in detention, and the presence of evidence. According to Article 184(1) of the Criminal Procedure Code (KUHAP), valid evidence includes witness testimonies, expert testimonies, documents, clues, and the defendant's statements. Exhibits presented in the trial include a small package of dried cannabis in a Surya cigarette pack, three Surya brand cigarettes to be destroyed, a pair of blue jeans, and a white and brown Xiaomi phone. **Non-Juridical Considerations:** Non-juridical considerations involve factors that the judge must weigh in sentencing. Before imposing a sentence, the judge considers aggravating and mitigating factors. In this case, there were no aggravating factors, but the mitigating factors included the defendant's respectful behavior in court, remorse for his actions, and the promise not to repeat the offense, as well as the fact that the defendant had never been previously convicted. The defendant, Lana Maulana alias Cana, was found guilty of narcotics abuse for personal use, as outlined in Article 127(1) of the Narcotics Law No. 35/2009 and Article 55(1) of the Penal Code (KUHP).

2. In Decision Number X/Pid.Sus-Anak/2020/PN Smn.180

Based on the judge's consideration in imposing a criminal sentence of institutional coaching to children in the form of coaching at the Youth Social Protection and Rehabilitation Center (BPRSR) D.I. Yogyakarta in Sleman for 1 (one) year. The judge ordered the case in the Sleman District Court Decision Number X/Pid.Sus-Anak/2020/PN Smn. was carried out in the following way:

a. Juridical Considerations

Juridical considerations are judges' considerations based on the juridical facts revealed in the trial by the law that have been determined as the results that must be contained in the verdict.¹⁸¹ Juridical considerations include demands from the public prosecutor, evidence, witness statements, defendants' statements, and articles in criminal law regulations.

b. Public Prosecutor's Demands

That because the alternative indictment or the third indictment charged by the public prosecutor against the defendant has been proven, and during the examination in the court trial no excuse was found to be used as a basis for erasing the guilt of the defendant, and therefore the defendant must be found guilty of committing a criminal act, namely using Class I Narcotics for himself.

Based on the judge's consideration in imposing a prison sentence on a child as a narcotics abuser in the Sleman District Court Decision Number X/Pid.Sus-Anak/2020/PN Smn. carried out by means of juridical considerations and the demands of the Public Prosecutor, these two considerations prove that the defendant is guilty of abusing methamphetamine-type narcotics with a criminal threat in Article 127 paragraph (1) letter a of Law Number 35 of 2009 concerning Narcotics, Law No. 35 of 2014 concerning amendments to Law No. 23 of 2002 concerning Child Protection, Law No. 11 of 2012 concerning the Juvenile Criminal Justice System and Law No. 8 of 1981 concerning the Criminal Procedure Law and other relevant laws and regulations.

c. Application of Narcotics Crimes

The problem of crime and bigotry in the history of mankind has always undergone changes, which are carried out in accordance with the development of human civilization itself. The development of the formulation of (criminal) sanctions in several countries, especially Western Europe, has been more advanced than the types of criminal sanctions regulated in the Criminal Code (KUHP).

In order to catch up with criminal law from the development of society and increasingly sophisticated technological developments, there have been changes in criminal law, especially with regard to the rapidly developing sanctions system. The application of criminal sanctions of imprisonment against children as narcotics abusers in the Padang District Court Decision Number X/Pid.Sus-Anak/2020/PN Smn., based on witness statements and complete evidence, so that the Defendant can be guilty of a criminal act.

3. In Decision Number X/Pid-Sus-Anak/2024/PN Sak.182

Based on the judge's consideration in imposing rehabilitation sanctions on children for narcotics abuse at the Siak Sri Indrapura District Court in Decision Number X/Pid-Sus-Anak/2024/PN Sak. Based on the judge's consideration in imposing a prison sentence on a child as a Class 1 Narcotics abuse at the Siak Sri Indrapura District Court in Decision Number X/Pid-Sus-Anak/2024/PN Sak., it was carried out in the following way:

a. Consideration of the Judge's Decision

The definition of juridical considerations is the judge's consideration based on the juridical facts revealed in the trial by the law that has been determined as a result, which must be contained in the verdict.¹⁸³ Juridical considerations include the demands of the public prosecutor, evidence, witness statements, defendants' statements, and articles in criminal law regulations.

That because the alternative indictment charged in the second alternative indictment by the public prosecutor to the defendant has been proven, and during the examination at the trial of the Children's Court at the Siak Sri Indrapura District Court, no excuse was found to be used as a basis for expunging the guilt of the defendant, and therefore the defendant must be found guilty of committing a criminal act, namely using Class I Narcotics instead of plants as in the alternative indictment second.

b. Public Prosecutor's Demands

After hearing the reading of the criminal charges filed by the Public Prosecutor, which is basically as follows:

- 1) Declaring that the child is legally and convincingly proven guilty of committing a criminal act "without the right or against the law to possess, store, control, or provide Class I Narcotics other than plants, Children who conflict with the law hereinafter referred to as children are children who are 12 (twelve) years old, but not yet 18 (eighteen) years old" as regulated and criminally threatened in the second indictment of Article 112 paragraph (1) of Law Number 35 of 2009

concerning Narcotics Jo. Article 1, Number 3, Number 11 of 2012 concerning the Juvenile Criminal Justice System.

- 2) Imposing a criminal penalty on coaching in a rehabilitation institution for 20 (twenty) months at the Pekanbaru Abiseka Center, and is required to take 3 (three) months of job training at the Pekanbaru Abiseka Center. Ordering the Child to be immediately removed from custody.
- 3) Establish evidence in the form of:
 - a. 1 (one) box of cigarettes of the On Bold brand.
 - b. 1 (one) large clear plastic bag of shabu-shabu type narcotics.
 - c. 1 (one) small plastic bag of shabu-type narcotics.
 - d. 4 (four) pieces of small plastic red clips.
 - e. 1 (one) green match.
 - f. 1 (one) green pipette (spoon). Destroyed.
 - g. 1 (one) blue Realmi C2 brand mobile phone.
 - h. Cash worth IDR 190,000.00 (one hundred and ninety thousand rupiah). Returned to Child.
- 4) Burdening Children to Face the Law to pay the cost of this case, amounting to Rp. 5,000.00 (five thousand rupiah).

The Judge's consideration was that because the child was in custody, while the interest of the examination had been fulfilled and the Judge imposed a penalty in the form of coaching in the institution at the Pekanbaru Abiseka Center, so that the Judge had sufficient grounds to remove the child from custody immediately, so it was ordered that the child be immediately removed from custody for rehabilitation.

Evidence in the form of 1 (one) box of cigarettes brand On Bold, 1 (one) large clear plastic bag of shabu-type narcotics, 1 (one) small plastic bag of shabu-shabu-type narcotics, 4 (four) pieces of small plastic red clips, 1 (one) green match, 1 (one) green pipette (spoon), then it has been determined that the evidence be destroyed.

The judge stated that the child had violated Article 112 paragraph (1) of Law Number 35 of 2009 concerning Narcotics Jo. Article 1 number 3 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, and Law Number 8 of 1981 concerning the Criminal Procedure Law and other relevant laws and regulations.

The judge stated that the child mentioned above was legally and convincingly proven guilty of committing a criminal act without the right to control Class I Narcotics, not a plant, as in the second alternative indictment. Imposing a penalty on the child, therefore, with a criminal punishment of coaching in an institution for 20 (twenty) months at the Abiseka Center in Pekanbaru, and is obliged to take part in job training for 3 (three) months at the Abiseka Center in Pekanbaru.

4. Application of the Ideal Concept of Formulation of Child Rehabilitation Sanctions for Narcotics Abusers

The application of the ideal concept to the formulation of the rehabilitation policy

for children of narcotics abusers, in order to create a suitable formulation/concoction regarding the ideal concept that is in accordance with the system of imposing medical rehabilitation sanctions and criminal sanctions on children who abuse narcotics, which so far has not shown optimal results.

For this reason, it is hoped that it can be evaluated so that formulations can be found that are able to make abused children stop and not return to abusing narcotics (relapses). With the theory of criminal law policy, it can be implemented through the formulaic/legislative policy stages, namely the formulation/drafting stage of criminal law, applicative/judicial policy, which is the stage of applying criminal law, and administrative/executive policy, namely the stage of implementing criminal law..

CONCLUSION

This study concludes that the implementation of rehabilitation for children who abuse narcotics must consider the aspect of child protection. Based on the decisions of several courts, children of narcotics abusers involved in narcotics crimes are entitled to rehabilitation, because they are considered victims of their own actions, not perpetrators of crimes that harm others. Therefore, the right decision is rehabilitation, not imprisonment, which can cause harm and does not provide adequate protection for children. The implementation of rehabilitation consists of medical rehabilitation, which is carried out to overcome narcotics dependence through treatment in government-appointed facilities, and social rehabilitation, which includes integrated physical, mental, and social rehabilitation of children. Rehabilitation is considered the best solution to humanize children and support their future. In addition, there needs to be an appropriate evaluation and policy formulation so that rehabilitation sanctions can effectively stop the cycle of narcotics abuse among children, in the hope of creating a more appropriate system for deciding on appropriate and effective sanctions.

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