

JURIDICAL STUDY OF THE APPLICATION OF RESTORATIVE JUSTICE TOWARDS MINORS WHO COMMIT CRIMINAL OFFENSES OF NARCOTICS ABUSE

Yusup Sukma Christi^{1*}, Donny Eddy Sam Karauwan², Alice Ance Bonggoibo³
^{1,2,3}Manokwari of Law, Manokwari, Indonesia
yuangnuraga4@gmail.com^{1*}, dkarauwan2017@gmail.com², stihalicebonggoibo@gmail.com³



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Abstract: In handling cases involving minors in narcotics crimes, the juvenile justice system operates differently compared to the adult justice system. Juvenile courts take drug offenses seriously and often refer children to juvenile delinquency courts with different procedures. Handling of juvenile cases can be done through diversion programs to treat factors that contribute to drug use and avoid criminal records. Juvenile courts tend to be rehabilitative, with consequences such as diversion or completion of a drug treatment program. Serious juvenile cases can result in harsh penalties, including incarceration in a juvenile facility. Serious juvenile cases may be transferred to adult court depending on applicable law. Special protection is given to children involved in drug trafficking. The application of restorative justice to juvenile offenders has been the subject of extensive research, emphasizing the importance of restoration over retribution. It is important to consider the welfare and developmental needs of the offending youth. Restorative justice is also important in dealing with narcotics crimes by juvenile offenders. In this journal, the research method used is normative legal research with the support of sociological or empirical research aspects. Secondary data from library research is used as a source of information, including expert opinions and formal data through official documents. The data analysis process used the content analysis method and was interpreted by the author himself, the results found that the application of Diversion and Restorative Justice in the Juvenile Criminal Justice System aims to provide an alternative resolution of criminal cases involving children, with a focus on recovery, responsibility and better justice. . Even though implementation has proceeded according to established standards, there are still obstacles such as difficulties in achieving a balance of interests, non-compliance with guidelines, feelings of aggrieved victims, and attempts by the formal justice system to take over the concept of restorative justice. To overcome these obstacles, it is important to strengthen the legal foundation, cultural structure, and involve related parties directly so that the Restorative Justice process can run effectively and fairly for all parties involved. These steps will help ensure better protection and justice for children involved in criminal cases, as well as have a positive impact on their future and development.

Keywords: Restorative Justice; Minors; Crime of Narcotics Abuse

I. INTRODUCTION

In handling cases involving minors in drug crimes, it is important to understand that the juvenile justice system operates differently compared to the adult justice system. Juvenile courts treat drug offenses seriously, including use, possession, or sale, and often refer children charged with drug-related offenses to juvenile delinquency courts that follow different procedures than adult criminal courts.

In some cases, cases involving children can be handled through diversion programs that aim to address the underlying factors that contribute to drug use and to avoid creating a criminal record. The court's focus on juveniles tends to be rehabilitative, where minor offenses such as drug possession can result in consequences such as diversion, probation, or completion of a drug treatment program (Yunus, 2021). However, more serious offenses, such as drug trafficking by minors, can result in harsher penalties, including incarceration in a juvenile facility.

For serious drug crimes, such as the production or sale of large quantities of controlled substances, juvenile cases may be transferred to adult court, depending on the laws in force in the county where the offense occurred. The decision to transfer a juvenile case to adult court is usually based on legal considerations specific to the jurisdiction in question.

In cases where minors are involved as couriers in narcotics trafficking, some legal jurisdictions provide special protections for them, recognizing their vulnerability to coercion in carrying out such activities. Laws in some regions also provide for harsh penalties for adults who coerce or employ minors for the purposes of drug trafficking (Irsyad Dahri, 2020). Thus, legal protection and sensitive case handling become an integral part of law enforcement against children involved in narcotics crimes.

The application of restorative justice to juvenile offenders involved in drug abuse crimes has been the subject of extensive research. Research has analyzed the application of restorative justice in various criminal cases involving minors, such as theft traffic accidents (Kencana et al., 2023), drug addiction rehabilitation (Arianto & Ramadhani, 2022), and theft of agricultural products (Pratidina et al., 2020). These studies emphasize the importance of involving perpetrators, victims and their families in finding fair solutions that prioritize recovery over retribution. Furthermore, this research highlights the role of probation and parole officers in implementing restorative justice in Indonesia. In addition, the psychological perspective and developmental stages of adolescents involved in criminal acts have been recognized in the implementation of restorative justice in Indonesia (Sriwiyanti et al., 2021).

The aim is to ensure that this approach takes into account the welfare and developmental needs of young people who offend. Furthermore, this research also explores the relationship between restorative justice and the resolution of criminal acts that are permitted by children, especially in the context of narcotics crimes (Fatima et al., 2022). It is important to note that the application of restorative justice in the treatment of juvenile offenders with intellectual disabilities has been explored, emphasizing the role of probation officers in research and community mentoring. Saefudin and Nasirudin, "Implementation Of Restorative Justice By Probation And Parole Officers In Indonesia." This underscores the need for tailored approaches to address the complexity of children's cases within a restorative justice framework.

Therefore, the synthesis of these references underlines the importance of restorative justice in dealing with criminal acts committed by juvenile offenders, especially in the context of drug abuse crimes. This research emphasizes the need for a holistic approach that considers the well-being, developmental stage, and specific circumstances of juvenile offenders, while involving the community and relevant stakeholders in the restorative justice process. applying Restorative Justice to minors who have committed criminal acts of drug

abuse, it is important to investigate how this approach can improve children's conditions, reduce the risk of relapse to criminal behavior, and strengthen positive social and community relationships. Apart from that, the study must also consider existing legal policies, best practices in implementing Restorative Justice, and evaluation results from programs that have been carried out previously.

II. RESEARCH METHOD

According to the classification presented by Soerjono Soekanto (Soekanto & Mamudji, 1995), legal research can be divided into two main types, namely normative legal research and sociological or empirical legal research. In the context of the research described in this journal, the research method used is normative legal research, which is supported by aspects of sociological or empirical research. In the process, secondary data from library research is used as a source of information, including opinions or writings from experts, as well as to obtain formal data and information through official documents. The types of secondary data used include various types of legal materials, both primary, secondary and tertiary. The data analysis process was carried out using the content analysis method, which was then interpreted in the author's own language, as explained by Nicha Suwalla (Suwalla et al., 2022) and colleagues in 2022.

III. DISCUSSION

Implementation of Restorative Justice towards minors

Legal regulations regarding the implementation of diversion and restorative justice in the criminal justice system are reflected in several applicable laws and regulations. According to the definition of Article 1 point 3 of Law Number 11 of 2012 concerning the Juvenile Justice System, the term used to refer to children involved in legal conflicts is "children in conflict with the law". A child in conflict with the law, in this context, is an individual who is 12 (twelve) years old, but has not yet reached the age of 18 (eighteen) years, and is suspected of being involved in a criminal act. In this context, children in conflict with the law can be identified as those who are accused, suspected or recognized as perpetrators of criminal law violations, as described in Article 40 paragraph (1) of the Convention on the Rights of the Child. (Sihombing, 2021)

From the perspective of the Convention on the Rights of the Child, children in conflict with the law are a group of children who are in a special situation. They tend to experience unmet needs, are vulnerable to violence, are often not in a family environment, and need personal protection and security. The role of parents plays an important role in nurturing and providing protection to these children.

According to the provisions contained in Article 26 paragraph (1) letter a of Law Number 17 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection, "Parents have the responsibility to care for, maintain and protect their children. their child." The concept of Restorative Justice was introduced more than twenty years ago as an alternative in resolving criminal cases involving child perpetrators. The United Nations (UN) Juvenile Justice Working Group defines Restorative Justice as a process where all parties involved in a crime sit together to address the problems that occurred and think about ways to reduce their impact in the future. The basic principle of Restorative Justice is a philosophy that prioritizes the peace process outside the courtroom, using mediation or deliberation to achieve the justice expected by the parties involved in the criminal case, including the perpetrator of the crime and his family, as well as the victim of the crime and his family. , in order to achieve the best solution that is acceptable and agreed upon by all parties involved.

The implementation of Diversion and Restorative Justice in the Juvenile Criminal Justice System has been taking place in accordance with established standards, but there are still several obstacles in the field. Basically, the application of Restorative Justice to criminal acts committed by children also aims to prevent the perpetrators from facing the criminal process which is sometimes considered not to fully reflect the values of justice in resolving criminal cases involving children as perpetrators.

During this time, children involved in criminal acts often have to be held criminally responsible, which often results in imprisonment with the aim of providing a deterrent effect, but this imprisonment often results in restrictions on children's rights. The concept of Restorative Justice provides protection for children as perpetrators of criminal acts because it emphasizes the perpetrator's willingness to repair the losses they have caused as a form of responsibility.

Currently, many children are involved in criminal cases and are processed through the courts, which in the end can have a negative psychological impact on the child, both directly and indirectly. Many court decisions result in the deprivation of children's rights to learn and receive protection in the process of their growth and development.

To reduce the negative impact of the justice process on child offenders, guidelines have been created that aim to protect children from the adverse consequences of the criminal justice process. This guideline gives police investigators the authority to make decisions in resolving criminal cases involving children informally, similar to handling cases involving adult offenders, by deliberation without bringing the case to court, handing it over to parents, or handing it over to social institutions for supervision and education. These steps are considered fairer for children for their future and development than putting children into the formal justice system (Munajat & Hum, 2023). Therefore, restorative justice is very important for the interests of children and to ensure their future.

Obstacles faced in the Implementation of Restorative Justice for Criminal Offenses by Minors include:

1. Difficulty in achieving a balance between the various interests of the parties involved (perpetrators, victims, society and the State).
2. Non-compliance with the basic guidelines and principles that have been established based on the principles of Human Development, Mutualism, Empathy, Responsibility, Respect and Fairness.
3. Feelings of victims who feel aggrieved and depressed in the Restorative Justice process.
4. Efforts by the formal criminal justice system to take over the concept of restorative justice due to its connection to the existing traditional system and its bureaucracy.

To overcome these obstacles, the application of restorative justice must be carried out systematically by strengthening the underlying legal basis, including its cultural structure, substance, and the parties directly involved. This will ensure that the restorative justice process can be effective and fair for all parties involved.

IV. CONCLUSION

So it can be concluded that the application of Diversion and Restorative Justice in the Juvenile Criminal Justice System aims to provide alternative resolution of criminal cases involving children, with a focus on better recovery, responsibility and justice. Even though implementation has proceeded according to established standards, there are still obstacles such as difficulties in achieving a balance of interests, non-compliance with guidelines, feelings of aggrieved victims, and attempts by the formal justice system to take over the concept of restorative justice. To overcome these obstacles, it is important to strengthen the legal foundation, cultural structure, and involve related parties directly so that the Restorative

Justice process can run effectively and fairly for all parties involved. These steps will help ensure better protection and justice for children involved in criminal cases, as well as have a positive impact on their future and development.

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