

## Sentencing of Juvenile Narcotics Offenders in the Sidoarjo District Court

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**Abstract:** *This research aims to answer the question of the judge's considerations in deciding a narcotics criminal case involving a child at the Sidoarjo District Court. And why is a form of legal protection provided to a child found guilty of committing a narcotics crime at the Sidoarjo District Court? This study is a legal research using a statute approach and a case approach. The analysis was carried out using qualitative juridical methods. The research found that the sentencing of a child in a narcotics case at the Sidoarjo District Court, based on Decision No. 12/Pid.Sus-Anak/2021/PN.Sda, considered the violation of Article 112 (1) of the Narcotics Law, the child's confession, witness testimony, and evidence. The judge also took into account the child's age, emotional stress from parental divorce, and applied a restorative justice approach, opting for a six-month work training at Marsudi Putra Social Welfare Institution for rehabilitation, involving family, legal counsel, and the Probation Office.*

**Keywords:** Crime, Narcotics, Juvenile, Criminal Justice

**Abstrak:** *Penelitian ini bertujuan menjawab pertanyaan apa pertimbangan hakim dalam memutuskan perkara tindak pidana narkoba yang dilakukan oleh anak pada Pengadilan Negeri Sidoarjo dan bagaimana bentuk perlindungan hukum bagi anak yang terbukti melakukan tindak pidana narkoba pada Pengadilan Negeri Sidoarjo. Jenis penelitian ini adalah penelitian hukum menggunakan metode pendekatan perundang-undangan dan pendekatan kasus. Data dianalisis menggunakan kualitatif yuridis. Hasil penelitian menyatakan bahwa penjatuhan hukuman terhadap seorang anak dalam kasus narkoba di Pengadilan Negeri Sidoarjo, berdasarkan Putusan Nomor 12/Pid.Sus-Anak/2021/PN.Sda, mempertimbangkan pelanggaran Pasal 112 ayat (1) Undang-Undang Narkoba, pengakuan anak, keterangan saksi, dan barang bukti. Hakim juga memperhatikan usia anak, tekanan emosional akibat perceraian orang tua, dan menerapkan pendekatan keadilan restoratif, memilih pelatihan kerja selama enam bulan di Lembaga Penyelenggaraan Kesejahteraan Sosial Marsudi Putra untuk rehabilitasi, melibatkan keluarga, penasihat hukum, dan Balai Pemasarakatan.*

**Kata Kunci:** Tindak Pidana Narkoba, Remaja, Peradilan Pidana

## A. Introduction

Children are part of the younger generation, serving as a crucial human resource that represents the potential and future of the nation's aspirations.<sup>1</sup> They play a strategic role and possess unique characteristics and qualities, necessitating guidance and protection to ensure their physical, mental, and social development.<sup>2</sup> Indonesia has established several regulations to protect, prosper, and fulfill children's rights. The definition of a child is provided in Article 1, paragraph 1 of Law No. 35 of 2014 on Child Protection, which states that a child is anyone under the age of 18, including those still in the womb. Children play a significant role, and hence their rights are explicitly outlined in Article 28B, paragraph (2) of the amended 1945 Constitution, where the state guarantees every child the right to survival, development, and protection from violence and discrimination.<sup>3</sup>

According to it, a child is still discovering their identity and is highly vulnerable to making mistakes without adequate parental attention. Moreover, children raised in families with issues or conflicts are more likely to engage in negative behaviors, which could be categorized as forms of juvenile delinquency. If such delinquent behaviors persist, the child may engage in unlawful acts, potentially committing crimes such as murder, rape, theft, and drug trafficking.<sup>4</sup>

Protecting children in conflict with the law must be based on the principles outlined in Article 2 of Law No. 11 of 2012 on the Juvenile Criminal Justice System. These include the principles of protection, justice, non-discrimination, the best interests of the child, respect for the child's views, the survival and development of the child, guidance and mentoring of the child, proportionality, and the use of deprivation

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<sup>1</sup>Robert Haveman and Barbara Wolfe, *Succeeding Generations: On the Effects of Investments in Children* (New York: Russell Sage Foundation, 1994), 15; Samuel Lerner and Hannah Smithson, "How Can You Punish a Child for Something That Happened over a Year Ago? The Impacts of COVID-19 on Child Defendants and Implication for Youth Courts," *Journal of Criminal Law* 87, no. 4 (2023); Abdullah Saeed, *Human Rights and Islam: An Introduction to Key Debates between Islamic Law and International Human Rights Law*, *Human Rights and Islam: An Introduction to Key Debates between Islamic Law and International Human Rights Law*, 2018.

<sup>2</sup>National Academies of Sciences Medicine Engineering, and et al., *Fostering Healthy Mental, Emotional, and Behavioral Development in Children and Youth: A National Agenda* (National Academies Press, 2019), 55; Eva Latipah et al., "Elaborating Motive and Psychological Impact of Sharenting in Millennial Parents," *Universal Journal of Educational Research* 8, no. 10 (2020); Fajar Ari Sudewo, Hamidah Abdurrachman, and Fajar Dian Aryani, "The Application of Restorative Justice System through the Diversion of Children in Conflict with Laws in Central Java Polda (Regional Police of the Republic of Indonesia)," *International Journal of Psychosocial Rehabilitation* 24, no. 2 (2020).

<sup>3</sup>Muslim Zainuddin et al., "Protection of Women and Children in the Perspective of Legal Pluralism: A Study in Aceh and West Nusa Tenggara," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (2024): 1948–73; Lisnawaty W. Badu and Julisa Aprilia Kaluku, "Restorative Justice in The Perspective of Customary Law: A Solution to The Settlement of Narcotics Crimes Committed by Children," *Jambura Law Review* 4, no. 2 (2022); Ramdani Abd Hafiz, Rodliyah, and Ufran, "Perlindungan Hukum Terhadap Anak Pelaku Tindak Pidana Narkotika Dalam Sistem Peradilan Pidana Anak," *Kertha Semaya: Journal Ilmu Hukum* 10, no. 2 (2022): 356–70.

<sup>4</sup>Saidah, "Counterproductive of Diversion for Children In Conflict With The Law: The Context of Legal Imposition From The Perspective Of Islamic Law," *Russian Law Journal* 11, no. 3 (2023); Yulia Utami and Muhamad Hasan Sebyar, "Analisis Pemidanaan Terhadap Anak Sebagai Pengedar Narkotika Dalam Perspektif Psikologi Kriminal," *Journal of Law and Nationation* 2, no. 4 (n.d.): 381–97.

of liberty and sentencing as a last resort. Law No. 11 of 2012 emphasizes the resolution of legal conflicts involving children as perpetrators towards restoration and compensation for the victims rather than punishing the child, a concept known as Restorative Justice.<sup>5</sup>

This approach is underpinned by a philosophy that states the process of resolving criminal cases involving children as perpetrators is not solely aimed at punishing the child but also at educating them. The primary goal of the juvenile criminal resolution process is to restore and rehabilitate the child to the state before the crime occurred with the concept of Restorative Justice, which offers a resolution of juvenile criminal cases outside the conventional criminal justice system, a comprehensive and effective solution is provided. This form of justice supports both the victim and the community, ensuring that the child offender takes responsibility without relying on equivalent retribution, whether it be psychological, physical, or punitive.<sup>6</sup>

The concept of restorative justice focuses more on restoring the conditions of the child and the community rather than merely punishing and sentencing children in narcotics crime cases should also consider aspects of guidance and rehabilitation. The juvenile justice system, focusing on the education and rehabilitation of the child as a developing individual, should be carefully applied, especially in severe cases such as narcotics.<sup>7</sup>

However, while on one hand, children as victims should receive special treatment, children who distribute narcotics are considered delinquent and should be dealt with legally according to the provisions of the SPPA Law.<sup>8</sup> There is still

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<sup>5</sup>Dedy Sumardi, Mansari Mansari, and Maulana Fickry Albaba, "Restoratif Justice, Diversi Dan Peradilan Anak Pasca Putusan Mahkamah Konstitusi Nomor 110/Puu-X/2012," *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum* 11, no. 2 (2022): 248–65, <https://jurnal.ar-raniry.ac.id/index.php/legitimasi/article/view/16010>; Nur Rochaeti and Nurul Muthia, "Socio-Legal Study of Community Participation in Restorative Justice of Children in Conflict with the Law in Indonesia," *International Journal of Criminology and Sociology* 10 (2021); Dewi Elvi Susanti, "Pemidanaan Terhadap Anak Sebagai Pelaku Tindak Pidana Studi Kasus Perkara Pidana No. 07/Pid-Sus-Anak/2017/Pn. Pdg," *JCH (Jurnal Cendekia Hukum)* 4, no. 2 (2019): 187–206.

<sup>6</sup>Elena Mitskaya, "Theoretical Thoughts on Legal Regulation of Mediation in Criminal Process in Kazakhstan," *International Journal of Criminal Justice Sciences* 15, no. 1 (2020); Masahiro Suzuki and Tamera Jenkins, "The Role of (Self-)Forgiveness in Restorative Justice: Linking Restorative Justice to Desistance," *European Journal of Criminology* 19, no. 2 (2022); Michael Weinrath and Braeden Broschuk, "Police and Crown Prosecutor Use of Restorative Justice and Diversion for Adults and Youth in a High-Crime Area," *Canadian Journal of Criminology and Criminal Justice* 64, no. 4 (2022).

<sup>7</sup>Susan Baidawi and Rubini Ball, "Child Protection and Youth Offending: Differences in Youth Criminal Court-Involved Children by Dual System Involvement," *Children and Youth Services Review* 144 (2023); Julie A. Lipovsky et al., "Child Witnesses in Criminal Court - Descriptive Information from Three Southern States," *Law and Human Behavior* 16, no. 6 (1992); Mashuril Anwar and M. Ridho Wijaya, "Fungsionalisasi Dan Implikasi Asas Kepentingan Terbaik Bagi Anak Yang Berkonflik Dengan Hukum: Studi Putusan Pengadilan Tinggi Tanjung Karang," *Undang: Jurnal Hukum* 2, no. 2 (2019): 265–92.

<sup>8</sup>Barbara Hudson, "Restorative Justice and Gendered Violence: Diversion or Effective Justice?," *British Journal of Criminology*, 2002; Anggita Anggraeni, "Penal Mediation as Alternative Dispute Resolution: A Criminal Law Reform in Indonesia," *Journal of Law and Legal Reform* (2020), 1, no. January (2020): 369–80; Dyah Listyarini, "Juvenile Justice System Through Diversion And Restorative Justice Policy," *Diponegoro Law Review* 2, no. 1 (2017).

controversy regarding its implementation. Some argue that discretion given to narcotic offenders who are children may involve irrational considerations, given that the victims of narcotic abuse not only harm the users themselves but also have implications on the community and even the nation.

In the case at the Sidoarjo District Court with case number 12/Pid.Sus-Anak/2021, the child was sentenced based on Article 112 paragraph (1) of Law No. 35 of 2009 on Narcotics. The application of this article needs further review, especially considering the limited role of the child as an intermediary in narcotics trafficking and their status as a minor. The child also suffered psychological pressure, including frustration due to parental divorce and school dropout, which influenced their actions. Although there were recommendations for a prison sentence, the judge opted for rehabilitative punishment through a six-month job training program at the Marsudi Putra Institute in Surabaya. This decision demonstrates the application of Law No. 11 of 2012 on the Juvenile Criminal Justice System, aimed at protecting and rehabilitating the child rather than punitive punishment. Additionally, the decision emphasizes the importance of family involvement in nurturing the child post-sentencing. Interestingly, the main perpetrators in this case, such as Rizal and Dika, were not caught, indicating that the child was part of a larger narcotics trafficking network, categorizing the child as a victim of the narcotics mafia. All these aspects highlight the complexity in sentencing juvenile narcotics offenders and open up opportunities to evaluate the effectiveness of the legal approaches applied.

From the description, this study's research type is legal research. The approach used in this research utilizes the Statute Approach and the Case Approach methods. The data sources employed in this research are divided into primary, secondary, and tertiary legal materials. Primary legal materials are binding and consist of the Sidoarjo District Court Decision Number 12/Pid.Sus-Anak/2021/PN.Sda, Law No. 35 of 2009 on Narcotics, and Law No. 11 of 2012 on the Juvenile Criminal Justice System. Secondary legal materials include works by legal experts that further explain primary legal materials, such as law textbooks and opinions of scholars related to this research topic. Tertiary or supporting materials guide or clarify the meaning of primary and secondary legal materials, including legal dictionaries and the Great Dictionary of the Indonesian Language.

This research will use these methodological approaches to discuss and analyze the judicial considerations in deciding narcotics crime cases involving children at the Sidoarjo District Court. It will also examine the form of legal protection for children proven to have committed Narcotic Crimes at the Sidoarjo District Court.

## **B. Judicial Considerations in Deciding Cases of Narcotic Crimes Committed by Juveniles at the Sidoarjo District Court**

In deciding case number 12/Pid.Sus-Anak/2021/PN.Sda, the judge presented several reasons as the basis for his decision. The Public Prosecutor charged the child perpetrator with alternative charges, and the judge decided to consider the charge that

aligned with the facts revealed during the trial, specifically the second charge, which alleged a violation of Article 112 paragraph (1) of the Republic of Indonesia Law No. 35 of 2009 on Narcotics. This article includes two main elements: "anyone without rights and unlawfully" possessing, storing, or controlling Narcotics of Group I. Based on this, the judge carefully assessed both elements to ensure whether the child perpetrator's actions met the criteria set by the charged article.

In this case, the judge considered that the element "anyone" in the charge is not a delict element, but rather an article element referring to every individual who is a legal subject, i.e., those suspected of committing a prohibited act under the law. This element is always attached to other delict elements and will be fulfilled if all delict elements are proven and the perpetrator can be legally held accountable. In this instance, the Public Prosecutor brought the child perpetrator, Mareta Tiberia Pratama Rusdi Awan alias Etha binti Wawan Rusdiyanto, whose identity was acknowledged and corroborated by witnesses. Thus, there was no mistaken identity or error in persona in this case.

The judge also assessed that the meaning of "without rights" refers to actions taken without legal authority or permission according to applicable legal rules. Meanwhile, "unlawfully" refers to actions that contravene existing legal provisions. In this case, the defendant was brought to trial by the public prosecutor with charges related to the misuse of Group I Narcotics, specifically methamphetamine, which was the main object in the indictment.

During the trial, it was revealed that the methamphetamine at the center of this case weighed 0.227 grams and was found during the arrest of the child perpetrator on April 18, 2021, on Jalan Raya Desa Ketegan, Sidoarjo. The child perpetrator admitted that the methamphetamine belonged to someone named Rizal (DPO), who had bought it from Dika (DPO) for Rp650,000.00 on Rizal's instruction. The child perpetrator and Rizal planned to use the methamphetamine together.

The judge also considered that the acquisition of methamphetamine by the child perpetrator from Dika (DPO) did not meet the requirements outlined in Law No. 35 of 2009 on Narcotics. This fact was further reinforced by witness testimonies and the child perpetrator's confession during the trial, where it was revealed that the acquisition of the methamphetamine was done without permission from the authorities. Based on the facts revealed during the trial, the judge concluded that the first element of the charge, the action "without rights and unlawfully," had been proven. The child perpetrator was deemed responsible for their actions in this narcotics misuse case.

For the second element, the judge considered that this element has an alternative cumulative essence, meaning that if one criterion is met, the entire element is considered fulfilled. According to the Criminal Forensic Laboratory Examination Record from the Surabaya Branch Forensic Laboratory, the evidence belonging to the child perpetrator was proven to contain Methamphetamine, which is included in Group I Narcotics according to Law No. 35 of 2009 on Narcotics. Thus, the judge decided that

this second element had been legally and convincingly met, and the child perpetrator was found guilty of unlawfully possessing Group I non-plant-based narcotics.

Before delivering a verdict, the judge first considered whether the child perpetrator was capable of being held legally accountable for their actions. Based on observations during the trial, the judge concluded that the child perpetrator was physically and mentally healthy. The child had no justifying or excusing reasons that could remove their criminal responsibility. Therefore, the judge opined that the child perpetrator should be sentenced appropriately for their actions, while still considering factors of justice.

The judge then considered factors that aggravated and mitigated the punishment for the child perpetrator. The aggravating factor was the child's action that did not support the government's narcotics eradication program. Meanwhile, the mitigating factors included that the child had not been previously punished, behaved politely during the trial, admitted their guilt openly, regretted their actions, promised not to repeat the mistake, and the child's parents were still able to nurture and educate them.

Based on Law No. 11 of 2012 on the Juvenile Criminal Justice System, the judge sentenced the child perpetrator to a rehabilitation program at a facility, in line with the recommendations of the Social Advisor. The judge considered the child still young and needed exceptional guidance and education. Prison was not deemed an appropriate place for the child's mental and emotional development, and during rehabilitation, the child was expected to acquire skills valuable for their future.

The judge considered the statement from the Social Advisor that if the child was sentenced to rehabilitation in an institution, the child must stay at a designated place. However, the judge disagreed with that recommendation. According to the judge, the child's actions were because the child was a victim of a more complex situation, including involvement in a narcotics mafia network. Additionally, the child experienced emotional issues due to their parents' divorce and a disharmonious relationship with their stepfather. Another mitigating factor was the child's desire to return to school after dropping out in the first year of high school, and the biological mother's ability to provide better guidance and supervision.

The judge also noted the child's statement during the trial expressing their desire to continue schooling. Therefore, by the provisions of Article 69 Jo Article 71 paragraph 1 letter c of Law No. 11 of 2012 on the Juvenile Criminal Justice System, the judge sentenced the child to a job training program at the Marsudi Putra Social Welfare Administration Institution in Surabaya, with the duration to be mentioned in the ruling. Additionally, considering that the child had been detained during the trial process, and the punishment was a job training program, the judge decided that the child should be released from detention immediately after the verdict was pronounced. The evidence related to this case would be determined in the ruling, and since the child was found guilty and sentenced, the child was also ordered to pay the legal costs, the amount of which would be mentioned in the ruling.

In the judge's considerations in the narcotics crime case involving the child, it was stated that the child still had the opportunity to be nurtured and educated. This was based on the assessment that the family, especially the biological mother, was still capable of guiding the child to lead a better life and not repeat their actions. The judge also considered the child's condition, still being a teenager and experiencing emotional pressure due to their parents' divorce, which then influenced the child's behavior. As explained in Article 70 of the Republic of Indonesia Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA), "The lightness of the act, the personal circumstances of the Child, or the circumstances at the time the act was committed or that occurred later can be used as a basis for the judge's consideration to impose a penalty or take action, considering aspects of justice and humanity."

### **C. Forms of Legal Protection for Children Proven to Have Committed Narcotic Crimes at the Sidoarjo District Court**

According to Law No. 11 of 2012 on the Juvenile Criminal Justice System, every child involved in a criminal act, including narcotics, is entitled to legal protection that includes justice, non-discrimination, and prioritizes the child's best interest. In this verdict, Mareta Tiberia Pratama Rusdi Awan, also known as Etha, received a form of legal protection as regulated by the SPPA, which involves treatment different from that of adults.

The judge considered that Mareta, only 17 years old, should not receive a severe punishment like imprisonment. This aligns with the principles of deprivation of liberty and sentencing as a last resort in the SPPA, where the primary aim is rehabilitation and guidance, not punishment. As defined in Law No. 11 of 2012 on the Juvenile Criminal Justice System, a minor is a child who is 12 years old but not yet 18 years old.

There are differences in the criminal justice process for adults and children who commit crimes, namely, the law mitigates the offenses committed by children because there are children's rights that need to be protected<sup>9</sup>. One example of the differences in the judicial process can be seen in the provisions of Article 3 of the SPPA Law, which regulates the rights of every child in the criminal justice process, including:

- a. Be treated humanely with attention to age-specific needs.
- b. Be separated from adults.
- c. Receive effective legal assistance and other support.
- d. Engage in recreational activities.
- e. Be free from torture, punishment, or other cruel, inhuman, and degrading treatment.

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<sup>9</sup>Analiansyah and Ali Abubakar, "Children Handling Procedure in Islamic Criminal Offense in Aceh," *Ahkam: Jurnal Ilmu Syariah* 21, no. 1 (2021); Faiz Rahman, "Contextualizing Restorative Justice Through Diversion Mechanism: A Study Of Indonesia's Juvenile Justice System," *Indonesia Law Review* 9, no. 3 (2019); Shannon M. Sliva and Mark Plassmeyer, "Effects of Restorative Justice Pre-File Diversion Legislation on Juvenile Filing Rates: An Interrupted Time-Series Analysis," *Criminology and Public Policy* 20, no. 1 (2021).

- f. Not be subjected to capital punishment or life imprisonment.
- g. Not be arrested, detained, or imprisoned, except as a last resort and for the shortest appropriate period of time.
- h. Receive justice in a juvenile court that is impartial, unbiased, and holds closed sessions not open to the public.
- i. Have their identity kept confidential.
- j. Receive the accompaniment of parents/guardians and a trusted person of the child's choosing.
- k. Receive social advocacy.
- l. Have a private life.
- m. Access necessary facilities, especially for disabled children.
- n. Receive education.
- o. Receive healthcare services.
- p. Enjoy other rights as stipulated by the law.

In this case, the judge imposed a six-month work training sanction at the Marsudi Putra Social Welfare Management Institute in Surabaya. This reflects the application of Article 69 paragraph (1) of the SPPA Law, which states, "A child may only be sentenced or subjected to measures according to the provisions in this Law." and Article 82 paragraphs (1) and (2) of the SPPA Law, which state: "(1) Measures that may be imposed on a child include: a. return to parents/guardians; b. handover to another person; c. treatment in a mental hospital; d. care in a Child Social Welfare Institution (LPKS); e. obligation to follow formal education and/or training organized by the government or private entities; f. revocation of a driving license; and/or g. restitution for the crime. (2) The measures referred to in paragraph (1) letters d, e, and f shall be imposed for no longer than one (1) year.", allowing the judge to opt for remedial measures instead of criminal punishment. This is intended to ensure that the child receives appropriate guidance, maintains psychological development, and avoids mental harm due to imprisonment. The measures include:

- a. *Work Training*: As a form of education, it is expected to help the child acquire skills for their future.
- b. *Return to Family*: The judge also considered the family's wishes, especially Marietta's biological mother, who is willing to guide and supervise the child to prevent the recurrence of the behavior

Legal protection for children is achieved through various support mechanisms, including the roles of legal advisors and the Social Welfare Agency (Bapas), which provide psychological and social support during the judicial process. Additionally, parental involvement in the legal process offers another form of protection that ensures children continue to receive family care and supervision. In this way, the penalties imposed on children are repressive and educational, allowing them to return to society with improved behavior.



In the Restorative Justice approach, the resolution of legal violations involves meetings between the victim and the offender (suspect) where they sit together to discuss the issue. During these meetings, the offender can openly explain their actions, with mediation to find the best solution for all parties involved. Restorative justice is a process where all parties related to a criminal act collectively think of the best way to address the consequences caused and how to prevent similar issues in the future. In this system, the resolution of juvenile cases can be shifted from the formal track through diversion mechanisms.<sup>10</sup>

Diversion, regulated in international child rights instruments and implemented through Law No. 11 of 2012 on the Juvenile Criminal Justice System, represents a significant innovation in Indonesia's juvenile justice system. This concept allows for shifting the resolution of certain juvenile cases from the formal criminal process to peaceful settlement. This process involves the suspect, victim, families, and the active roles of community mentors, police officers, prosecutors, and judges. Diversion offers a more humane approach that supports child rehabilitation instead of merely imposing punishment.<sup>11</sup>

One form of protection in this decision is the avoidance of prison sentences. According to the SPPA, prison is only applied when no other alternatives are available, especially for children who are still developing. The judge stated that prison is not a suitable place for Mareta as it could worsen her mental condition and hinder the rehabilitation process. Additionally, legal protection for children is explicitly regulated in Law No. 11 of 2012 on the Juvenile Criminal Justice System, where the sentencing of children is not solely oriented towards punishment but is more directed towards nurturing, aimed at supporting the moral and social development of the child. In this case, imprisonment was deemed not the right solution as it could negatively impact the child's mental development. Instead, a form of punishment involving work training at a social institution was chosen by the judge as a more appropriate rehabilitation step for the child.

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<sup>10</sup>Ahmed Al-Dawoody and Vanessa Murphy, "International Humanitarian Law, Islamic Law and the Protection of Children in Armed Conflict," *International Review of the Red Cross*, 2019; Lidya Rahmadani Hasibuan, *Diversi Dan Keadilan Restoratif Pembaharuan Sistem Peradilan Pidana Anak Di Indonesia* (PLEDOI, 2014), 11; Nashriana et al., "Enhancing Restorative Justice in Indonesia: Exploring Diversion Implementation for Effective Juvenile Delinquency Settlement," *Sriwijaya Law Review* 7, no. 2 (2023); Badu and Kaluku, "Restorative Justice in The Perspective of Customary Law: A Solution to The Settlement of Narcotics Crimes Committed by Children.," Kara J. Beckman et al., "Reducing Re-Arrest Through Community-Led, Police-Initiated Restorative Justice Diversion Tailored for Youth," *Crime and Delinquency* 70, no. 10 (2024).

<sup>11</sup>Rizanizarli Rizanizarli et al., "The Application of Restorative Justice for Children as Criminal Offenders in the Perspective of National Law and Qanun Jināyat," *Samarah* 7, no. 1 (2023); Jasser Auda, *Maqasid Shariah as Philosophy of Islamic Law: A Systems Approach*, ed. I (London: IIIT, 2007); Muhammad Afzal and Muhammad Khubaib, "Flexibility in the Implementation of Islamic Criminal Law in Modern Islamic Society in the Light of Qur'ān and Sunnah," *Journal of Islamic Thought and Civilization* 11, no. 1 (2021).

#### D. Conclusion

Based on the discussion above, it can be concluded that in deciding cases of narcotics offenses committed by children, judges consider several key factors: the elements of the charge according to Article 112 paragraph (1) of Law No. 35 of 2009 on Narcotics, the child's psychological condition, and the social background involving emotional pressure due to their parents' divorce. The judge opted for a corrective measure through work training, prioritizing rehabilitation over imprisonment, by the principles of justice and humanity in the Juvenile Criminal Justice System Law (SPPA). This approach reflects restorative justice that focuses on the child's recovery and allows the child to return to society with improved behavior. Therefore, it is essential for families, especially parents, to support the child's rehabilitation actively, and for the government, judicial institutions, and related agencies to enhance cooperation in providing comprehensive legal protection and guidance for children involved in criminal activities.

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