

# Legal Justice in Considering Post Traumatic Syndrome Disorder in Criminal Immination in High Court Number 9/PID.SUS-ANAK//2020/PT DKI

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## ABSTRACT

As the law state, Indonesia has the purpose of protecting the entire Indonesian nation and all Indonesian bloodshed. It is clearly stated in the Constitution of the Republic of Indonesia that those who face legal issues, especially children, must get their fundamental rights while serving a sentence. In imposing criminal sanctions on children also, the judge must pay attention to children's needs and rights. Besides, parents and state social workers must have a role in ensuring the protection of the children. It becomes more crucial when the children have a mental disorder and must get continuous treatment as stipulated by law. In the children's perspective, beyond the fact that whether the children act as perpetrators or victims, the children are still the victim. They can be the victim of parental neglect, misleading parenting, and even the lack of parental supervision. All these situations lead the children to commit law-violating acts. Children with Post Traumatic Syndrome Disorder must get a sense of security either from both parents or the state. The children must get social rehabilitation as special treatment until they recover from their mental disorder.

**Keywords:** Legal Justice, Post Traumatic Syndrome Disorder, Legal issue

## 1. INTRODUCTION

Indonesia is a legal state based on power (machstaat). This is stated in Article 1 paragraph (3) of the Undang – undang Republic Of Indonesia which contains "The State of Indonesia is a state of law". The rules of this state of law are to regulate every activity of members of the community because the community has various interests. So, in fulfilling this, every relationship made by the community is regulated by law so that there is a balance in living community life. [1]

As a state of law, Indonesia has a goal that is contained in Undang – Undang Dasar 1945 (UUD 1945). It is stated that Indonesia's goals as a state are to protect the entire nation and the entire homeland of Indonesia, prosper the public interest, educate the nation's life and participate in world peace efforts in accordance with independence, eternal peace and justice. This is stated in Undang – undang Dasar 1945.

Guaranteed protection and people's rights in every aspect of life is actually the opposite. Due to the occurrence of various kinds of problems that cause human behavior to deviate even contrary to the enactment of established norms, causing crimes and violations.

The more developed the society, the more crimes that occur. The crime of murder is one of the causes of anxiety. Moreover, if the mastermind behind the crime is a minor.

This is worrying for the community, especially parents. Although physically, the child does not yet know the consequences of doing these actions.

Today, many children are involved in violent crimes that lead to murder, whether the child is the victim or the child is the perpetrator. Lack of people monitoring the internet used can also be a trigger for crime. In addition, the environmental impact and rapid development in the field of technology can also trigger the child's actions. Significant influence on technology, especially social and cultural changes also lead to determinism in technology where technology is also very influential in the patterns of thinking and actions in society. Technology can also lead people to move from one technology century to another. Therefore, to deal with technological developments that affect children's lives, the role of parents is very important to supervise.

Cases of murder committed by minors are very popular among the people. Due to the negative impact of technological developments and changes in style and even way of life, children commit crimes that can result in very fatal things even if the child is in a condition where he feels pressured which causes him to take actions that are out of bounds. [2]

Often, when it is the "child" who is the mastermind of a crime, Indonesia follows up on the child's actions through legal channels. However, this is very worried by parents and the Indonesian people themselves, because children

are the next generation of the Indonesian nation. If a child is punished, it can also cause physical and psychological pressure and can hinder the child's growth and development.

Judges in imposing criminal sanctions on children in conflict with the law, are obliged to pay attention to the needs and rights of the child as a child. It is clearly stated in the Indonesian Constitution and the 1945 Constitution that "every child has the right to survival, growth and development and the right to protection from violence and discrimination" [3]

For example, a child who is in conflict with the law, where the child has a mental disorder called Post Traumatic Syndrome Disorder, which means there is fear during or after experiencing a traumatic situation. Actually, it's a natural thing that everyone must have experienced this reaction and can recover. [4]

In considering criminal sanctions, judges in making decisions really need to be considered because juvenile justice must prioritize educative and moral giving to children. Judges in making criminal decisions must also not only be based on juridical considerations, because the value of justice and truth is not sufficient with the value of losses, the impact of actions and legal truth. [5]

Elements such as sociological, psychological, criminological and philosophical factors also need to be considered and these elements are the reasons why the perpetrator commits a crime. In particular, these factors also need to be considered in handling child criminal cases. Like considering a child who suffers from Post Traumatic Syndrome Disorder (PTSD), which is someone who suffers from trauma and can appear when someone's past events occur by hearing or seeing the events they experienced. A child suffering from a mental illness such as PTSD really needs to be considered in making a decision. [6]

Moving on to the explanation above, the author is interested in raising a thesis entitled "Legal Justice in Considering Post Traumatic Syndrome Disorder in Sentencing Criminals at Court Number 9/Pid.Sus-Anak//2020/PT DKI."

### **1.1. Problems**

How is legal justice in considering Post Traumatic Syndrome Disorder in the criminal imposition of High Decision Number 9/Pid.Sus-Anak//2020/PT. DKI?

### **1.2. Methods**

The research method in writing scientific papers is an inseparable part because through the research method it will provide a clear direction for researchers in digging up information, data acquisition, and an overview of the research plan. The method used in this research is normative legal research with analytical descriptive research. The type of data used is secondary data which is divided into primary legal materials, secondary legal materials, and tertiary legal materials. This study focuses

on data collection techniques with library research (library research) and data processing techniques by selecting secondary data by classifying certain data groups. The approach used is the case approach and the statutory approach and the data analysis technique used is deductive logic.

## **2. ANALYSIS**

Mental disorders have 2 (two) types. First, Personality Disorder or can be called a Personality Disorder. Personality Disorder is a personality that deviates from normal people due to mental problems that cause sufferers to have unhealthy patterns of thinking, behavior, and feelings. Someone who has a personality disorder (Personality Disorder) can feel a sense of difficulty in interacting with other people so that the impact is limitations in building relationships and difficulties in carrying out activities.

One of the factors that cause the disorder is due to a traumatic childhood experience that has caused this sufferer to develop the disorder. Some forms of traumatic experience can be physical, verbal, sexual abuse, neglect, and separation or lack of affection from parents. Second, Mental Illness or can be called a mental disorder, which has a health condition that can affect a thought, feeling, behavior, mood or can also feel everything in a condition.

As for one type that is part of mental illness, namely Post Traumatic Syndrome Disorder or it can be abbreviated as PTSD. PTSD is a syndrome in which a person experiences a traumatic event where post-traumatic stress disorder can occur when there is a process of events that match what he experienced in the past.

In this condition, mental disorder is actually a psychological syndrome that causes the sufferer to experience mental dysfunction in his body. Environmental factors can also influence these conditions. Due to the dysfunction of mental awareness which ultimately makes the patient refuse to adapt to the surrounding environment. A person who experiences this condition tends to be more inclined towards a quiet attitude, but inwardly the sufferer may be in trouble. So that who knows the condition is the patient himself.

Kitab Undang – Undang Hukum Pidana (KUHP), if the defendant cannot be accounted for because his soul is disturbed, the judge in imposing sanctions can be in the form of being put in a mental hospital for a maximum of one year. The theory of criminal law explains the difference between criminal sanctions and actions, namely the crime of using special suffering (*bijzonderleed*) on the perpetrator as a result of his actions while the action (treatment, *maatregel*) aims to protect and educate.

As for the case of Decision Number 9/Pid.Sus-Anak//2020/PT DKI, in the decision the perpetrator who is still 14 years 11 months old suffers from a mental health disorder Post Traumatic Syndrome Disorder. In conducting the examination, a psychiatric examination is required by a psychiatrist, namely a psychiatrist or

psychologist to examine and determine a mental condition of the defendant at the time of committing a crime. In the case of Decision Number 9/Pid.Sus-Anak//2020/PT DKI the judge decided that the defendant was found guilty of committing the crime of murder which resulted in death. The judge decided that the perpetrator was placed for 2 (two) years in the Social Welfare Organization (LPKS). However, at this time, LPKS is very inadequate due to the lack of funds, limited facilities, and infrastructure especially the ignorance of the child's family environment and there are still people who do not accept children back into the environment. LPKS also lacks professional social workers so that it can hinder the coaching process from going well. Thus, in deciding cases from a psychological aspect, the judge views the defendant as capable of being responsible.

If the defendant's soul is disturbed, then the imposition of action will be more appropriate than imprisonment based on Article 44 of the Criminal Code. The sanction that can be imposed is being put in a mental hospital for a maximum of one year, but it must also be accompanied by actions to return the perpetrator to the community and his family. This is because children who have mental or mental health disorders must get healing, by achieving psychological recovery status, because if there is no good psychological recovery, the negative tendencies in the perpetrator will repeat without any intention even because of unstable mental strength.

### 3. CONCLUSION

In Decision Number 9/Pid.Sus-Anak//2020/PT DKI, the perpetrator who is still 14 years 11 months old suffers from mental health disorders Post Traumatic Syndrome Disorder, Children who suffer from mental health disorders, in the Child Protection Act (UUPA). ), must get mental rehabilitation, social rehabilitation, and medical rehabilitation. Children as perpetrators can occur because of dysfunctions that occur in the family environment so that there are mental health disorders in children. So that to restore the rights of children, the perpetrators of homicides who are still minors are entitled to special treatment in a mental hospital in accordance with Article 44 of the Criminal Code or the health sector that has been determined by the ministry of health

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