

Article Title

Supervision and Observation for the Implementation of Court Decisions: A Case Study of Child Crime

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ABSTRACT

This study aims to determine the role of the Supervisor and Observer Judge and to analyze the factors influencing the implementation of Court Decisions against child crimes in the Class IIA Penitentiary of Maros. This research uses empirical legal research methods. The primary data collection was carried out using a questionnaire, while the secondary data was collected using literature study techniques. The data obtained in this research is quantified using a quantitative descriptive analysis model, then described using a frequency distribution table for answer research purposes. The results show that the role of the Supervisor and Observer Judge is not limited to supervising and observing child convicts during their punishment period at the Penitentiary but also supervising and observing child convicts after they leave the Penitentiary or have finished their punishment period and return to society. Furthermore, three dominant factors influence the implementation of Court Decisions against child crimes in the Class IIA Penitentiary of Maros: the law enforcer factor, the facilities factor, and the community factor. Awareness of child convicts as a community factor has positively influenced the implementation of the Maros District Court Decision. Therefore, it is recommended for the Supervisor and Observer Judge to maximize their role. In this case, the role of the judge must supervise and observe the activities of child convicts and the role of Correctional Officers in implementing Court Decisions in the Class IIA Penitentiary of Maros. In addition, it is suggested to the Minister of Law and Human Rights make regulations regarding the proportion of the Supervisor and Observer Judge to the number of convicts in the Penitentiary so that the implementation of Court Decisions can run optimally in the future.

Keywords: Child Crime; Court Decision; Judge; Observation; Supervision.

INTRODUCTION

In carrying out Judicial Power, the Supreme Court of the Republic of Indonesia does not only carry out a tribunal or a purely judicial function (Nasrullah, 2020). The Supreme Court also carries out non-judicial or adjudication functions, one of which is the supervisory function (Rosadi, 2019). Based on Article 39 section (1) of Law of the Republic of Indonesia Number 48 of 2009 on the Judicial Power, it regulates that:

“The highest supervision of judicial execution in all judicial bodies under the Supreme Court in exercising Judicial Power is carried out by the Supreme Court.”

Likewise, Article 32 section (1) of Law of the Republic of Indonesia Number 3 of 2009 on the Second Amendment to Law Number 14 of 1985 on the Supreme Court regulates that *“the Supreme Court performs the highest supervision of judicial execution in all judicial bodies under it in exercising Judicial Power.”*

Nevertheless, the legal reality shows that implementing oversight of court decisions is less effective (Widodo, 2012). This condition is proven by the many cases of public reports against judges who commit violations. Furthermore, several studies have discussed the constraints of the Supervisor and Observer Judge in implementing their roles. In this case, the Supervisor and Observer Judge must ensure the implementation of the Court Decision at the Penitentiary. Iswariyani et al. (2021)

explained that the lack of laws and regulations governing duties, authorities, and sanctions is one of the factors that the Supervisor and Observer Judge did not perform optimally. [Alhumami \(2018\)](#) explained that the Supervisor and Observer Judge were less effective in carrying out their roles because they also had to carry out their main duties as judges in the District Court. This condition certainly requires attention in the future, especially concerning the regulation of the supervisory function itself, the benchmarks used, and follow-up on the results of observations from the Supervisor and Observer Judge.

Based on the description above, this study aims to determine the role of the Supervisor and Observer Judge and to analyze the factors influencing the implementation of Court Decisions against child crimes in the Class IIA Penitentiary of Maros.

METHOD

This research uses empirical legal research methods whose object of study includes the provisions of laws and regulations (*in abstracto*) and their application to legal events (*in concreto*) ([Qamar & Rezah, 2020](#)). Furthermore, this type of empirical legal research focuses on legal practice as a social phenomenon in terms of the reciprocal relationships caused by social phenomena, including economic, political, social, psychological, and anthropological aspects ([Irwansyah, 2021](#)). This research was carried out from August to October 2019 in the Class IIA Penitentiary of Maros, Maros Public Attorney Office, and Maros District Court. The sample in this research consisted of 25 respondents, including:

1. Supervisor and Observer Judge with five respondents;
2. Public Prosecutor with five respondents;
3. Child Convicts with five respondents; and
4. Correctional Officers with ten respondents.

The types and sources of data used in this research are as follows:

1. Primary Data is data obtained from respondents based on sample determination;
2. Secondary Data is data obtained from searching legal literature, including laws and regulations, references, legal scientific journals, legal encyclopedias, and texts or official publications.

The primary data collection was carried out using a questionnaire with 25 respondents. While the secondary data was collected using literature study techniques on primary, secondary, and tertiary legal materials. The data obtained in this research is then quantified using a quantitative descriptive analysis model, then described using a frequency distribution table for answer research purposes ([Sampara & Husen, 2016](#)).

RESULTS AND DISCUSSION

A. Supervision of the Implementation of Court Decisions on Child Crimes

To support the successful implementation of court decisions, then based on Article 277 of Law of the Republic of Indonesia Number 8 of 1981 on the Code of Criminal Procedure (hereinafter referred to as Law No. 8 of 1981), it regulates that:

- (1) In each court, there must be a judge who is given a special duty to assist the head in supervising and observing the court's decision which imposes a crime of deprivation of independence.
- (2) The judges referred to in section (1) are called the Supervisor and Observer Judge, appointed by the head of the court for a maximum of two years.

The Supervisor and Observer Judge primarily have two main duties in implementing court decisions: supervision and observation. Article 280 Section (1) of Law No. 8 of 1981, it regulates that *"the Supervision and Observation Judge conduct supervision to obtain certainty that the court's decision is carried out as it should."*

From the provisions above, the supervisory role aims to ensure that decisions regarding the imposition of punishment for deprivation of independence have been carried out under the principles of humanity and justice. In addition, the supervisory role also aims to prevent the emergence of public perception that court decisions are only used as symbols. Furthermore, Article 280 section (2) of Law No. 8 of 1981, it regulates that:

"The Supervisor and Observer Judge conduct observations for research materials for the sake of decisions that are beneficial to punishment, which is obtained from the convict's behavior or the development of the penitentiary and the reciprocal influence on the convict while undergoing their punishment."

From the provisions above, it can be understood that observation roles aim to observe child convicts while undergoing a period of punishment (Mallett, 2016). In this case, regarding the conditions of their respective behavior from the child convicts as well as the treatment of the correctional officers towards the child convicts themselves. Thus, besides knowing the extent to which the court's decision has been reached, the Supervisor and Observer Judge also know the child convict's good and bad punishment results (Nosita & Zuhdi, 2022). Apart from that, observation roles are also important for research beneficial to punishment. Furthermore, the Judges also supervise and observe former child convicts after being outside the Penitentiary. In this case, Article 280 section (3) of Law No. 8

of 1981, it regulates that *“the observation, as referred to in section (2), will still be carried out after the convict has completed their punishment.”*

Therefore, the role of the Supervisor and Observer Judge is not limited to supervising and observing child convicts during their punishment period at the Penitentiary but also supervising and observing child convicts after they leave the Penitentiary or have finished their punishment period and return to society (Adipradipto et al., 2019).

A Penitentiary as a place of development must foster child convicts to be accepted in society after completing their punishment (Situmorang, 2019). Therefore, with their authority to examine the implementation of court decisions, the Supervisor and Observer Judge must also ensure that correctional officers have carried out their duties properly so that development impacts their child convict (Mahmud et al., 2019).

On the other hand, details regarding the procedures for carrying out supervisory and observation duties have been contained in the Circular of the Supreme Court of the Republic of Indonesia Number 7 of 1985 on Duty Implementation Instructions of the Supervisor and Observer Judge. Given that the essence of supervision is aimed to Prosecutors and Correctional Officers, the supervision duties can be summarized as follows:

1. Examining and signing the registration of supervision and observation in the secretariat of the District Court. The Supervisor and Observer Judge supervises the registration of minutes of implementation of court decisions by the Prosecutor. The Supervisor and Observer Judge oversees whether the convict has been submitted on time to the Penitentiary. If the time needs to be corrected, the Supervisor and Observer Judge can ask the Prosecutor.
2. Conduct on-the-spot checking at least once every three months at the Penitentiary to monitor the correctness of the minutes of implementation of the court decision signed by the Prosecutor, Head of Penitentiary, and Convict.
3. Conducting observations at the Penitentiary by coming directly to see the conditions, atmosphere, and activities taking place in the Penitentiary environment. Under correctional principles, punishment is not meant to suffer and is not allowed to degrade human dignity. In addition, it also observes the convict's behavior with the punishment imposed on him.
4. Conducting interviews with correctional officers, especially with a convict and convict's guardian whom the Penitentiary officer randomly selected. From the results of these interviews, it is possible to obtain the data sought and to see whether progress or setbacks have occurred in convict from development obtained in the Penitentiary. In this interview, the Supervisor and Observer

Judge asked about the treatment received by the convict by the Penitentiary officer. For example about food and rooms provided. In addition, ask how the convict feels about the court decision handed down to him. For example, whether it is considered fair or not. Next, ask about how the relationship between convicts and officers. The last question is about what to do after leaving the Penitentiary.

5. The Supervisor and Observer Judge can contact the Head of the Penitentiary to exchange suggestions and opinions regarding the convict's development and the treatments that the convict receives from the Penitentiary officer.

In contrast, given that the essence of observation is aimed at the problem of the justice system itself. In this case, the data obtained will be used as research material and provide consideration for court decisions at a later date. Therefore, the observation duty is to collect convict data categorized based on the type of crime committed (Rusydi, 2021). Data regarding convict behavior can be based on factors, namely:

1. Type of crime committed (for the first time or has been committed repeatedly);
2. The state of the household (good, bad, or other circumstances);
3. family attention to him (very big, mediocre, or lack of attention);
4. The state of the environment;
5. Employment record (self-employed, employee, unemployed, or another occupational category);
6. Personality (calm, egotistical, or some other personality);
7. Number of close friends (one, two, three, or more);
8. His mental state.

From the description above, it can be understood that the supervision and observation carried out by the Supervisor and Observer Judge is to oversee the fulfillment of the rights of convicts. In this case, as a human being with dignity whose freedom has been deprived based on a court decision handed down to him. In addition, the supervision and observation carried out by the Supervisor and Observer Judge also aim to monitor if there is arbitrariness by an irresponsible law enforcer.

B. Factors Influencing the Implementation of Court Decisions against Child Crimes

Handling the supervision and observation of the implementation of the judge's decision is inseparable from the activities carried out by the Penitentiary as a place for the development of child convicts (Basri, 2021). Therefore, supervision and observation as part of law enforcement certainly have factors that

influence its implementation. In this case, [Soekanto \(2016\)](#) put forward the theory of enforcement in which five factors influence law enforcement: legal factor, law enforcer factor, facilities factor, community factor, and cultural factor. However, in the context of the implementation of supervision and observation of the Maros District Court Decision, it only focuses on three dominant factors influencing law enforcement: law enforcer factor, facilities factor, and community factor.

1. Law Enforcer Factor

Democratization brings logical consequences to the community's increasing responsiveness and critical power toward officers' performance ([Basuki, 2021](#)). Sociologically, each officer has a position and role. On the other hand, law enforcement applies to parties who will implement it and to parties who make the law. However, in this context, the application of law enforcement is only focused on the roles of Supervisor and Observer Judge for child convicts who have received a Maros District Court Decision. In this case, look at development activities for child convicts in the penitentiary. Penitentiary Officers as law enforcers are variables of the state apparatus that expand their duty in developing child convicts, which does not escape the public's attention. Therefore, Penitentiary Officers must be professional and mentally strong or have high moral integrity in developing child convicts.

Based on this description, the law enforcer factor in implementing the Maros District Court Decision against child crimes can be seen in the following table.

Table 1. Law Enforcer Performance in Implementing the Maros District Court Decision

Indicator	Frequency	Percentage
Effective	9	36,00%
Less Effective	12	48,00%
Ineffective	4	16,00%
Total	25	100,00%

Source: Primary Data, 2019

The table above shows that law enforcer performance related to supervision and observation in implementation still needs to be more effective. Thus, law enforcer performance needs to be increased so that what is expected by the community can be carried out properly. On the other hand, human resources are the first aspect of improving performance. Human resources are something related to the potential of thinking, planning, and implementing in

fostering child convicts. In this case, child convicts can become useful human beings and benefit the surrounding community in the future.

Furthermore, there are three dimensions and are the main issues that the Supervisor and Observer Judge must pay attention to when going to the Penitentiary to ensure the implementation of the Court Decision, including:

- a. The dimension of personality is the ability to develop so that child convicts maintain integrity which includes attitudes, levels of behavior, ethics, and morality under the views of society;
- b. The dimension of productivity is the ability to develop so that child convicts do not repeat unlawful acts in the future; and
- c. The dimension of creativity is the ability to develop so that child convicts can think and act creatively to create something useful for themselves and society.

2. Facilities Factor

Facilities are one of the main factors in the implementation of the development of child convicts in the Penitentiary (Kristianto, 2021). The availability of supporting facilities is a measure of the success of the development of child convicts. In this case, the Class IIA Penitentiary of Maros has provided facilities such as a place for workshop practice, the manufacture of wicker rattan and bamboo chairs, and a place for practicing farming and gardening. These facilities are quite adequate in carrying out the development of child convicts.

Based on this description, facilities factors in implementing the Maros District Court Decision against child crimes can be seen in the following table.

Table 2. Development Facilities in Implementing the Maros District Court Decision

Indicator	Frequency	Percentage
Adequate	8	32,00%
Less Adequate	10	40,00%
Inadequate	7	28,00%
Total	25	100,00%

Source: Primary Data, 2019

The table above shows that the facility for developing child convicts still needs to be improved. In this case, to support the implementation of the development of child convicts in Penitentiary. If we return to law enforcement

theory, it can be assessed that the facility in the Class IIA Penitentiary of Maros is one of the factors inhibiting the ineffective implementation of the development of child convicts.

3. Community Factor

Awareness of child convicts as a community factor in Penitentiary strongly influences the implementation of development (Safa'ah et al., 2017). Awareness of child convicts is an assessment of their seriousness in carrying out an activity to improve their skills as a provision when they have finished carrying out the punishment (Rivanie et al., 2021).

Based on this description, community factors in implementing the Maros District Court Decision against child crimes can be seen in the following table.

Table 3. Awareness of Child Convicts in Implementing the Maros District Court Decision

Indicator	Frequency	Percentage
Active	20	80,00%
Less Active	3	12,00%
inactive	2	8,00%
Total	25	100,00%

Source: Primary Data, 2019

The table above shows that child convicts as a community are very active in implementing development activities. In this case, child convicts have a high awareness and desire to improve their skills as a provision when they have finished carrying out the punishment. One of the child convicts stated that the instructors and coaches were very good at teaching them. Therefore, awareness of child convicts effectively influences the implementation of the Maros District Court Decision.

CONCLUSIONS AND SUGGESTIONS

Based on the results and discussion above, it can be concluded that the role of the Supervisor and Observer Judge is not limited to supervising and observing child convicts during their punishment period at the Penitentiary but also supervising and observing child convicts after they leave the Penitentiary or have finished their punishment period and return to society. Furthermore, three dominant factors influence the implementation of Court Decisions against child crimes in the Class IIA Penitentiary of Maros: the law enforcer factor, the facilities factor, and the community

factor. The factor of law enforcers and facilities is less effective and less adequate, so it still needs to be improved. In contrast, awareness of child convicts as a community factor has positively influenced the implementation of the Maros District Court Decision. Based on the description of these conclusions, it is recommended for the Supervisor and Observer Judge to maximize their role. In this case, the role of the judge must supervise and observe the activities of child convicts and the role of Correctional Officers in implementing Court Decisions in the Class IIA Penitentiary of Maros. In addition, it is suggested to the Minister of Law and Human Rights make regulations regarding the proportion of the Supervisor and Observer Judge to the number of convicts in the Penitentiary so that the implementation of Court Decisions can run optimally in the future.

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