



Law Enforcement Against Criminal Acts of Drug Abuse Committed by Children

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Abstract Children are the future generation of the nation that must be protected, especially when dealing with the law. Law enforcement against perpetrators of drug abuse crimes committed by children has been effective. Drug abuse has a very bad impact on the continuity of a nation's generation. To anticipate this, cooperation is needed from all components of society, such as families, from school to university level, and the government must unite in efforts to prevent narcotics in the surrounding environment. Using the perspective of Law Number 35 of 2009, this study attempts to analyze how narcotics crimes committed by children are prosecuted legally. Drug abuse is a serious crime that can endanger the security and sovereignty of the state, as well as the growth and future of the state, according to a normative legal approach that includes analysis of laws and regulations and previous events. Illegal drug use is prohibited, according to Law Number 35 of 2009. Research findings show that, despite the need for legal action against children who use drugs, the juvenile criminal justice system uses Restorative Justice strategies along with the concept of diversion to protect children from stigma.

Keywords : Law Enforcement, Narcotics, Child Crime.

1. INTRODUCTION

Law number 2 of 2002 concerning the Republic of Indonesia National Police generally regulates the development of the profession and the code of ethics of the profession so that the actions of Polri officials can be accounted for, both morally and technically, especially human rights. In addition, this law contains regulations on Polri membership which include certain regulations regarding the rights of Polri members, both civil service rights, political rights and obligations subject to the authority of the general judiciary.

The Republic of Indonesia is a country based on law (*rechtsstaat*), this can be seen in Article 1 paragraph (3) of the 1945 Republic of Indonesia Law. This means that all subsystems of the administration of the Indonesian state and its constitutional system, its social system must be regulated by law, and also all elements of the state power apparatus and citizens must obey the laws created for a country based on law. (Septa Chandra, 2014) So that the State has an obligation to carry out Reforms in the legal aspect in order to provide certainty, justice and benefits for its citizens, one of which is to carry out reforms in the criminal law for children in conflict with the law.

Recently, drug crimes have become transnational in nature, carried out with sophisticated modus operandi and technology. According to Law Number 35 of 2009 concerning Narcotics, Article 1 states that narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic. The impact of consuming narcotics causes a

decrease or change in consciousness, loss of feeling, reducing to eliminating pain, and causing dependence . (M. Rofi Wicaksono, 2022)

Talking about drug abuse committed by children requires the role of parents, the role of the police as protectors of the community, the role of the National Narcotics Agency as the implementer of national policies on preventing and eradicating drug abuse and distribution, and the role of education to prevent drug abuse. In this case, the government continues to strive to suppress cases of drug abuse including abuse committed by children, one of which is the government conducting an anti-narcotics campaign with the slogan "SAY NO TO DRUGS".

The government's efforts with the campaign are considered ineffective in preventing drug abuse by children. In terms of trying drug abuse committed by children, it does not only refer to Law Number 35 of 2009 concerning Narcotics but must also refer to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Law Number 11 of 2012 regulates the procedures for the juvenile justice process to resolve juvenile cases starting from the investigation stage until after undergoing criminal sanctions. In the Juvenile Criminal Justice System Law, there is no term for suspect or defendant. The law uses the term Children in Conflict with the Law (ABH). The use of the term ABH (Sainrama Pikasani Archimada, 2021) is also a form of government effort so that the child's psyche and mental state are not disturbed by the status of suspect or defendant.

If law enforcement only targets drug users, drug eradication efforts will fail. While drug dealers or carriers should be the target of police operations, users and addicts should be seen as victims or patients who need rehabilitation. In line with the Supreme Court Circular (SEMA, 2009) concerning the Placement of Drug Users in Therapy and Rehabilitation Institutions, logically the police can assist in finding and arresting dealers by arresting users, and certain groups of users can undergo rehabilitation. Meanwhile, drug dealers must face severe legal penalties, including the death penalty in some circumstances that meet the criteria.

Formulation of the problem :

1. What are the factors that cause drug abuse in children?
2. How is the Law Enforced on Drug Abuse by Children?

2. RESEARCH METHODS

This study uses a type of normative legal research using a conceptual approach *that* starts from the views and doctrines that develop in legal science with a scientific procedure to find the truth based on scientific logic from its normative side by analyzing problems and research through an approach to legal principles and referring to legal norms contained in laws

and regulations. (Amirudin, 2016) In this study, the data used is secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials analyzed using qualitative normative analysis methods.

3. DISCUSSION

FACTORS CAUSING DRUG ABUSE BY CHILDREN

A person's social status in society is greatly influenced by several factors. As long as there is something that is valued in society, there will be layers in it and these layers determine a person's social status. For people in big cities like Pekanbaru, a person's social status is determined by many factors including economy, education, environment, and so on. Likewise, this social status is determined by social stratification which has a vertical aspect in the economic field, where the irregularities between the rich and the poor make the rich occupy their own class without paying attention to their surroundings so that the poor are in their own class whose lives are increasingly impoverished. (Khairul Ihsan, 2016)

Regarding these factors, according to Eleanora, the factors that cause drug abuse are:

1. Subversion Factors By "socializing" drugs in the target country, in practice the population or nation in the country concerned will gradually forget their obligations as citizens. *Subversion* like this usually does not stand alone and is usually followed by subversion in the cultural, moral and social fields.
2. Economic Factors Every drug addict needs drugs at all times as part of their life needs, the dosage of which tends to always increase. Compared to other goods, narcotics are profitable goods, even though the dangers and threats are quite severe.
3. Factors from outside the family environment. The existence of international drug syndicates that try to penetrate every barrier in the country or with unofficial goals, this is what drives people to pursue a career or wealth by any means, including neglecting their families.
4. Individual Factors There are several individual factors that cause drug abuse among teenagers, namely curiosity factors, genetic factors, biological factors, psychological factors, and social factors.
5. Curiosity factors can make teenagers interested in trying drugs and eventually become addicted. Genetic factors are also a risk factor for drug abuse. Young people are at increased risk of becoming addicted to drugs if they have parents or siblings who are addicted to drugs or alcohol. Psychological factors, during adolescence intellectual abilities also increase. Social factors, children or teenagers with certain characteristics have a greater risk

of becoming drug abusers. (Aelfi Elisabet, 2022) Drug abuse often occurs with other mental disorders such as depression, anxiety or antisocial personality disorder.

6. Environmental factors Environmental factors can also be a cause of drug abuse among teenagers. These environmental factors are family environmental factors, school environmental factors, and school environmental factors.
7. Drug Availability Factor. Drugs themselves are a motivating factor for someone to use drugs because: a) Drugs are increasingly easy to obtain and buy; b) Drug prices are increasingly cheap and affordable for people's purchasing power; c) Drugs are increasingly diverse in type, method of use, and packaging form; d) Modus Operandi of drug crimes is increasingly difficult to uncover by law enforcement; e) There are still many dark drug laboratories that have not been uncovered; f) It is difficult to uncover computer crimes and money laundering that can help the dark drug trade business; g) Increasingly easy internet access that provides information on drug production; h) The drug business promises great profits; and i) Drug trafficking is controlled by a strong and professional syndicate. The basic ingredients of drugs (precursors) circulate freely in society.

LAW ENFORCEMENT ON CHILDREN'S DRUG ABUSE

The definition of criminal law among legal experts provides different understandings. According to Prof. Moeljatno, SH, criminal acts are acts that are prohibited by criminal law and are subject to criminal penalties for anyone who violates the prohibition. (Yasmirah Mandasari Saragih, 2024)

Juvenile Criminal Justice realizes the welfare of children, so that children are tried separately. All activities carried out in Juvenile Criminal Justice should be carried out by Juvenile Investigators, Juvenile Public Prosecutors, Juvenile Judges or Juvenile Correctional Institution officers, based on the principle of child welfare. Judges impose sentences or actions intended to provide the best, without sacrificing the interests of society and upholding the authority of the law. (Yasmirah Mandasari Saragih, 2023)

In Indonesia itself there are several laws and regulations that regulate children, for example Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Law No. 4 concerning Child Welfare, Law No. 39 of 1999 concerning Human Rights, Law No. 23 of 2002 concerning Child Protection and various other regulations related to children's issues. The definition of a child based on Article 1 point 1 of Law No. 23 of 2002 concerning *Child Protection is a person who is not yet 18 (eighteen) years old, including a child who is still in the womb*. Meanwhile, based on Article 1 paragraph (3) of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, it also explains that *a child in conflict with the law*,

hereinafter referred to as a Child, is a child who is 12 (twelve) years old, but not yet 18 (eighteen) years old who is suspected of committing a crime. (See Law Number 23 of 2002)

As can be seen from the identified cases and people arrested as a result of coordinated network operations, drug crimes are well-organized crimes. Crimes involving drugs can be punished based on Law Number 35 of 2009 concerning Narcotics, which can be divided into several categories as follows:

1. As users, they will be subject to criminal sanctions in accordance with Article 116 of Law Number 35 of 2009 concerning Narcotics, with prison sentences ranging from 5 years to a maximum of 15 years.
2. As dealers, they can be punished under Article 81 and 82 of Law Number 35 of 2009 concerning Narcotics, with a maximum sentence of 15 years in prison and/or additional fines.
3. As producers, they can be subject to criminal sanctions under Article 113 of Law Number 35 of 2009 concerning Narcotics, with a maximum sentence of 15 years in prison

Punishment of perpetrators of crimes cannot be separated from the criminal punishment system adopted by the legal system in Indonesia, an important part of the criminal punishment system is determining a sanction. (Yasmirah Mandasari Saragih, 2023)

The implementation of juvenile law enforcement is different from criminal justice in general . Starting from the investigation stage carried out by juvenile investigators, then juvenile prosecutors, to juvenile judges. In its implementation, the juvenile justice system prioritizes restorative justice. Restorative justice is the resolution of a criminal case by involving the perpetrator, victim, the perpetrator's family and/or the victim's family and other parties involved together to seek a resolution with efforts to restore the original state, and not retaliation.

Based on the provisions of the articles in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System which are limited to the provisions of Law Number 35 of 2009 concerning Narcotics, then drug abuse committed by minors, based on the provisions of Article 127 of Law Number 35 of 2009 concerning Narcotics Jo./Juncto (connected) with the provisions of Article 71 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, namely formulating that the child can only be given sanctions by a judge, in the form of criminal sanctions and actions. The Narcotics Law regulates the implementation of a sanction system for children.

This is a consequence of *the principle of lex specialis derogat legi generalis* . Law Number 11 of 2012 has provided legal protection to children in conflict by providing special treatment to children, namely: special child investigators, investigations with a family

atmosphere, investigators do not use official attributes during investigations, the obligation to implement diversion, the obligation to request community research reports, and maintaining the confidentiality of children's identities.

The concept of diversion, which seeks to protect perpetrators, victims, and the community by resolving cases outside the criminal justice system, was introduced through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and offers several legal protections for children in Indonesia. For example, Article 7 of the Law concerning the Juvenile Criminal Justice System stipulates that child offenders facing a prison sentence of less than 7 (seven) years and who are not recidivists must be examined at all levels to see if diversion is an option. (Rohman Hakim, 2023)

Restorative justice in the juvenile criminal justice system is called diversion, which is the transfer of the resolution of juvenile cases from the criminal justice process to a process outside the criminal justice system. Diversion can be carried out if: (1) the person is threatened with a prison sentence of less than 7 years; and (2) is not a repeat criminal act (*recidivism*). In addition, judges are required to use diversion for children charged with criminal acts with a sentence of less than 7 (seven) years, and in the case of a sentence of 7 (seven) years or more, the judge can consider subsidiary, alternative, cumulative, or combined sentences, according to Article 3 of Supreme Court Regulation Number 4 of 2014 (Sainrama Pikasani Archimada, 2021)

In addition to the protection of child criminals, child prisoners must receive the fulfillment of the rights of child prisoners, namely the right to grow and develop, the right to participate, the right to education, the right to eat and drink and the right to a place to live. Child prisoners also need to receive social guidance to develop their personality and community life.

4. CONCLUSION

1. Factors causing drug abuse, namely: subversion factors, economic factors, factors from outside the family environment, individual factors, environmental factors. Efforts to prevent drug abuse come from various roles such as: Self-role, family role, community role, school role, and government role.
2. The implementation of juvenile law enforcement is different from criminal justice in general. Starting from the investigation stage carried out by juvenile investigators, then juvenile prosecutors, to juvenile judges. In its implementation, the juvenile justice system prioritizes restorative justice. Restorative justice is the resolution of a criminal

case by involving the perpetrator, victim, the perpetrator's family and/or the victim's family and other related parties together to seek a resolution with efforts to restore the original state, and not retaliation. Restorative justice in the juvenile criminal justice system is called diversion, which is the transfer in the resolution of juvenile cases from the criminal justice process to a process outside the criminal justice process.

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