

The Law Enforcement on Criminal Acts of Narcotics Abuse by Child

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Abstract.

The purpose of this study was to determine and analyze law enforcement against the crime of narcotics abuse by children. To find out and analyze the obstacles in law enforcement against the crime of narcotics abuse by children. To find out and analyze efforts to overcome the obstacles of criminal acts of narcotics abuse by children. This study used an empirical juridical approach, with descriptive research specifications. The data used in this study was secondary data obtained through literature study which was then analyzed qualitatively. The results of this study are Law Enforcement Against Criminal Acts of Narcotics Abuse by Children are The government and state institutions should provide special protection for children, and most specifically for children who are in conflict with the law and children who are victims of narcotics abuse. The problem is: Law enforcement officers or legal structures here are limited to the police, prosecutors and judges. Facilities and facilities in law enforcement are less supportive and incomplete. Community participation and control in some areas are still very low due to a sense of not caring about their own environment even though it is clearly seen directly that there are acts of narcotics abuse. The quality and quality of some police officers who work in the Res Unit are still low. The efforts are: Increased understanding of the concept of diversion with restorative justice is aimed at law enforcement officers (both for the police, prosecutors and judges). Must try to develop potential or human resources in the Res Unit. Drugs through participating in further training on narcotics and the modes in their distribution, so that in the future members of the Res Unit. Drugs have the ability and are more maximal in seeking law enforcement against narcotics crimes. Inviting all elements of society because in accordance with the law the community plays a role in handling, preventing, and distributing narcotics.

Keywords: Abuse; Children; Crime; Enforcement; Narcotics.

1. Introduction

The life of the nation and state, security is a determining factor in the life of the nation and state, the implementation of a sovereign and authoritative government, which is the main condition for supporting the realization of a just, prosperous, prosperous and civilized civil society system based on Pancasila and the 1945 Constitution of the Republic of Indonesia. . Domestically, the National Police carry out law enforcement efforts through the process of investigating and investigating criminal acts as regulated in Act No. 2 of 2002 concerning the Indonesian National Police.¹

The 1945 Constitution of the Republic of Indonesia, in Article 28D (1) states that: "Everyone has the right to recognition, security, protection, and legal certainty as well as equal treatment before the law". However, the implementation and

¹Ni Made Srinetri, Umar Ma'ruf, *Progressivity Of Criminal Handling Fraud And Disease By The Directorate Of The General Criminal Investigation Of Central Java Regional Police (POLDA)*, Jurnal Daulat Hukum Volume 3 Issue 1, March 2020 ISSN: 2614-560X.

regulations issued by the legislators in this case the Government and Parliament of the Republic of Indonesia (DPR RI) are not in line with the words of Article 28D (1).²

The development of the population in Indonesia is happening very rapidly, so it must be balanced with the emergence of awareness in the community, which is expected to prevent consequences that can harm the nation and hinder the achievement of the nation's ideals, namely a just and prosperous society. For this reason, it is necessary to continuously improve efforts in the field of treatment and health services, including the availability of Narcotics and psychotropic drugs as drugs, in addition to efforts to develop knowledge including research, development, education, and teaching so that their availability needs to be guaranteed through production and import activities.³

Illegal circulation of narcotics and psychotropics is mushrooming in Indonesia due to the many entrances available in various border areas of Indonesia, weak supervision in border areas, cheap prices for narcotics and psychotropic dealer couriers, easy recruitment of narcotics and psychotropic dealer couriers, high population, easy to find places stay for narcotics and psychotropic traffickers as well as the conditions for the application of sanctions and legal certainty that are less than optimal.⁴

Narcotics crime has reached troubling proportions. The state security apparatus has also increased its activities to continue conducting various raids and operations, because the distribution of narcotics is not only evenly distributed, but is truly indiscriminate. The targets of narcotics abuse are not only carried out by teenagers and adults, but also children in big cities and remote villages. Circulation of narcotics has been troubling, because drug dealers have affected many minors. Children in general have a great curiosity, so that the information received is considered something new and worth trying without them realizing whether this something leads to goodness or vice versa. Things like this have resulted in the emergence of problems in the lives of today's children which of course will encourage parents, the community, and other parties, namely the government to pay attention to their development. For three decades, the problem of children, both as perpetrators and victims of crimes (criminal acts) can be said to have received less attention from the Government. The government has enacted Act No. 11 of 2012 concerning Juvenile Court. In addition to the need for legal protection for child victims of crime, there is also a need for legal protection for children as perpetrators of crimes. The government has also passed Act No. 35 of 2014 concerning Child Protection⁵.

Abusers who are guaranteed rehabilitation based on Article 4 of Act No. 35 of 2009, but in Article 127 abusers are made subjects who can be convicted and lose

² Endang Kusnandar, Anis Mashdurohatun, Siti Rodhiyah Dwi Istinah, (2020), *Protection Analysis Of Children Rights That Was Born From The Rape Causing (Study in State Court (PN) in Ex-Residency Cirebon Jurisdiction)*, Jurnal Daulat Hukum Volume 3 Issue 1, March 2020 ISSN: 2614-560X

³ Mardani, (2008), *Penyalagunaan Narkoba dalam Prestif Hukum Islam dan Hukum Pidana Nasional*, Jakarta : Raja Grafindo Persada. p. 1.

⁴ Siswandi. (2011). *Pangsa Narkotika Dunia Indonesia*. Jakarta : Gramedia.p. 16.

⁵ Chuasanga A., Ong Argo Victoria. (2019). *Legal Principles Under Criminal Law in Indonesia and Thailand*, Jurnal Daulat Hukum, Vol 2, No 1 (2019) <http://jurnal.unissula.ac.id/index.php/RH/article/view/4218>

their right to rehabilitation, unless it can be proven or proven as a narcotics victim. In addition, it is necessary to prove that narcotics users when using narcotics are coaxed, deceived, cheated, forced and/or threatened to use narcotics. The many terms can confuse law enforcement officers in applying the articles in Act No. 35 of 2009. The position of narcotics addicts has a slightly different position from other criminals,⁶

The purpose of this study was to determine and analyze law enforcement against the crime of narcotics abuse by children. To find out and analyze the obstacles in law enforcement against the crime of narcotics abuse by children. To find out and analyze efforts to overcome the obstacles of criminal acts of narcotics abuse by children.

2. Research Methods

Research is basically a stage to find the real truth. The research method that will be carried out by the author is empirical juridical research, namely legal research which is conceptualized as a real social institution associated with aspects of social life and law as an empirical social phenomenon based on secondary data as initial data then proceed with primary data or data obtained in the field.⁷ Based on the nature and form of this research is descriptive. The data used in this study is secondary data obtained through literature study which is then analyzed qualitatively.

3. Result and Discussion

3.1. Law Enforcement Against Criminal Acts of Narcotics Abuse by Children

Law enforcement against children is not protected in every investigation process until the trial. Whereas in Act No. 11 of 2012 it is explained that it is obligatory to prioritize restorative justice, which means that in the justice process it is very important to prioritize the protection of the rights of the child.

Law enforcement and community participation are needed to prevent drug abuse. Because if there are no laws that are written about abuse. In a country that adheres to a written legal system, there are consequences that every process of law enforcement and respect for the principles of upholding Human Rights (HAM). Based on the applicable law regarding enforcement or crime enforcement. In the prevention of criminal acts, two efforts are needed, namely by penalizing or law enforcement with non-penal means, which means that legal settlement does not use criminal law (penal).⁸

The implementation of criminal sanctions in a general sense is part of the legality principle which states that *nullum delictum, nulla poena, sine preavia lege*

⁶Hera Saputra, Munsyarif Abdul Chalim, *Penerapan Sistem Pemidanaan Terhadap Pelaku Tindak Pidana Penyalahgunaan Narkoba (Studi Kasus di Polda Jateng)*, Jurnal Daulat Hukum Vol. 1. No. 1 March 2018 ISSN: 2614-560X

⁷Amirudin and Zainal Asikin, (2003), *Pengantar Metode Penelitian Hukum*, Jakarta : Raja Grafindo Persada. p.132.

⁸Hamzah, A., & Surachman. (1994). *Kejahatan Narkotika Dan Psicotropika* . Jakarta : Sinar Grafika.

(*poenali*).⁹ With the law, the criminal law was born. The formation of statutory sanctions is determined by the legislators who require the realization of an agency in ways that can actually implement or implement the criminal rules in question. To realize this crime, infrastructure is needed.

According to Friedman¹⁰, to know the effectiveness of law in a society, there are three interrelated components, namely legal substance, legal structure and legal culture. In relation to narcotics crime, it needs to be handled wisely through a criminal justice system which includes the components as stated in Friedman's theory which consists of:

- Related to the legal substance (legal substance), namely the content or legal material that regulates narcotics, namely Act No. 35 of 2009 concerning Narcotics.
- Related to the legal structure, namely institutions that handle narcotics crimes, starting from law enforcement officials.
- Related to legal culture or culture (legal culture) is defined as the perception and appreciation of the community, as well as the government regarding matters regarding narcotics, where this is largely determined by values, beliefs, or social, political, economic systems that develop and live in society.

These three components are closely related and influence each other so that the prevention and control of narcotics crime can run effectively and efficiently.

Handling children who are perpetrators of criminal acts, law enforcement officers are always obliged to pay attention to the requirements of children who are not the same as adults. The nature of the child being a person who is still unstable, the future of the child becomes an asset of the nation, & the position of children in society who still need protection can be used as a basis for finding an alternative solution how to prevent children according to a formal criminal justice system, placing children in prison, & stigmatizing on the position of children as prisoners. This is because the nature of the child and his psychological state in some exclusive cases require specific treatment and special protection as well, especially against actions which in essence can harm the mental and physical development of the child.¹¹

Looking at the facts, "In the field, it is not uncommon for children's rights in the law enforcement process to protect the rights of children who commit criminal acts in every investigation process until the trial.¹² Of course, the mandate of Act No. 11 of 2012, in this case, must prioritize restorative justice, which is the fulfillment of justice and protection of the rights of the child. The position of children based on Act No. 11 of 2012, Article 22 of children can only be sentenced to a crime according to the provisions of the applicable law. As for children aged 8-18 years, they can be punished using exclusive restrictions in accordance with Act No. 11 of 2012.

⁹Sholehuddin. (2003). *Sistem Sanksi dalam Hukum Pidana*. Jakarta : Raja Grafindo Persada.

¹⁰Friedman, L.M. (1975). *The Legal System for Social Science Perspective*. New York : Russell Sage Foundation.

¹¹ Maskur, Muhammad A. (2012). *Perlindungan hukum terhadap anak nakal (Juvenile delinquency) dalam proses acara pidana Indonesia*. Pandecta: Research Law Journal, Vol.7, (No.2) p.171-181.

¹² Haling, Syamsul., Halim, Paisal., Badruddin, Syamsiah., & Djanggih, Hardianto, (2018), *Perlindungan Hak Asasi Anak Jalanan Dalam Bidang Pendidikan Menurut Hukum Nasional Dan Konvensi Internasional*. Jurnal Hukum & Pembangunan, Vol.48 (No.2), p.361-378.

According to that, children aged 8-18 years must also seek diversion, in order to realize restorative justice for children who are commit crimes, especially drug abuse. So that children are not deprived of their independence & can develop in sync using the child's own dignity and prestige.

Law Enforcement Against Criminal Acts of Narcotics Abuse by Childrenis The government and state institutions should provide special protection for children, and most specifically for children who are in conflict with the law and children who are victims of narcotics abuse.

3.2. Obstacles in law enforcement against criminal acts of narcotics abuse by children

The police as law enforcement officers in Indonesia have an active role in suppressing the number of narcotics trafficking. In addition to protecting the community and creating security, the police have the task of stopping the circulation of narcotics in Indonesia. With the Act No. 35 of 2009 concerning narcotics becomes the police's guideline in law enforcement against narcotics crimes. The Indonesian Police, assisted by the National Narcotics Agency (BNN) continues to suppress the number of narcotics crimes so that they do not continue to increase every year.

The role of the police in enforcing the law is carried out by the Police Unit Res. Drugs in eradicating and tackling drug abuse including narcotics, namely by holding the first pre-emptive program (coaching), the second preventive program (prevention) and the third repressive program (action).¹³ Police from the Res. Drugs for the eradication of narcotics abuse will begin with efforts to foster, prevent, and take action before the crime occurs.

- *Pre-emptive (Coaching)*

That "pre-emptive or coaching programs are aimed at people who have not used drugs, or are not even familiar with drugs".¹⁴ A preventive measure is preventive. In practice in the field, the police refer to this preemptive term as community development or indirect prevention, namely coaching that aims to make the community become law abiding citizens.¹⁵

- *Preventive (Prevention)*

In accordance with the legal principles used by the police in carrying out their duties, the police must prioritize the preventive principle, namely prioritizing preventive measures in responding to and dealing with all events that occur in the community. This legal principle is strengthened by the existence of Article 14 Paragraph (1) letter i in Act No. 2 of 2002 concerning the Indonesian National Police which is the legal basis for implementing preventive measures by the police.

- *Repressive (action)*

¹³ Nugroho, Wien Okta Adhy. (2011). *Peran Satuan Narkoba Dalam Pemberantasan dan Penanggulangan Kejahatan Narkotika di Kabupaten Klaten (Studi Pada Polres Klaten)*. Fakultas Hukum, Universitas Negeri Semarang. p. 99

¹⁴ Partodiharjo, Subagyo. (2006). *Kenali Narkoba dan Musuhi Penyalahgunaannya*. Jakarta : Esensi. p. 100

¹⁵ Suparlan. (2004). *Bunga Rampai Ilmu Kepolisian Indonesia*. Yayasan Pengembangan Kajian Ilmu Kepolisian. Jakarta, p. 40

The last effort to eradicate abuse of various types of drugs, especially narcotics carried out by the drug unit is to hold a repressive program which is the stage of taking action against people who have abused narcotics, this is an absolute authority for the police in eradicating all forms of irregularities, one of which is narcotics abuse. . "Repressive is a program of action against producers, dealers, dealers and users based on the law".

Police in law enforcement of narcotics crimes for narcotics users as perpetrators of criminal acts, it is undeniable that they must have obstacles they face. The illicit trafficking of narcotics using sophisticated technology is unfortunately not supported by sophisticated facilities and infrastructure in dismantling the activities of the perpetrators. One of these facilities and infrastructure is a detector or telephone tapping device. Another obstacle that affects the duties and functions of the police in an effort to enforce or eradicate narcotics abuse is the participation and control of the community in some areas which are still very low because they do not care about their own environment, even though it is clearly visible directly that there are acts of narcotics abuse.¹⁶

The provision of legal protection for children who are perpetrators of narcotics courier crimes has not been without obstacles. These obstacles can come from internal law enforcement (police, prosecutors and judges) or from outside law enforcement itself. To see what obstacles are faced by law enforcement in providing legal protection to children who are perpetrators of narcotics courier crimes, the legal system theory expressed by Lawrence M. Friedman will be used which divides it into 3 (three) components, namely: legal structure, legal substance, and legal culture and is complemented by the opinion of Soerjono Soekanto regarding the factors that influence law enforcement which he divides into 5 (five) categories, namely: legal factors, law enforcement factors, facilities or facilities factors, community and cultural factors.¹⁷

The obstacles in law enforcement against criminal acts of narcotics abuse by children are: Law enforcement officials or legal structures here are limited to the police, prosecutors and judges where the three law enforcement officers play an active role in providing legal protection for children who are perpetrators of narcotics abuse by children using the diversion method with restorative justice. Facilities and facilities in law enforcement are less supportive and incomplete. Community participation and control in some areas are still very low due to a sense of not caring about their own environment even though it is clearly seen directly that there are acts of narcotics abuse. The quality and quality of some police officers who work in the Res Unit are still low. Drugs to carry out special operations on narcotics abusers is one of the obstacles in eradicating narcotics abuse. The operation in question is a urine test on a suspected person during a narcotics raid.

¹⁶ Tarigan, T. Bastanta. (2013). *Peranan Polri Dalam Pemberantasan Penyalahgunaan Narkotika (Studi Kasus Polsekta Pancurbatu)*. Jurnal Ilmiah. Fakultas Hukum, Universitas Sumatera Utara. p. 17

¹⁷ Soerjono Soekanto, (2014), *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, Jakarta : Raja Grafindo Persada. p. 8

3.3. Efforts to overcome obstacles to criminal acts of drug abuse by children

A law enforcer in carrying out legal procedures for sanctions for children who are in conflict with the law or in this special situation, must use a special paradigm. This is very necessary because the sanctions given must be able to provide educational value, and the nature of the sanctions must be in accordance with the philosophical meaning. Therefore, the sanctions must provide the best solution to the existing problems, and in the best interests of the child, in accordance with the *ultimum remedium* principle.¹⁸

Police efforts to overcome the obstacles experienced by the police in law enforcement against narcotics crimes are in collaboration with the community, institutions and organizations. The formation of cooperation between the police and several organizations, institutions, and/or community leaders is a police measure to increase public awareness and obedience to the law and statutory provisions and maintain security and order.¹⁹

Efforts to overcome obstacles to criminal acts of drug abuse by children are: Increased understanding of the concept of diversion with restorative justice is aimed at law enforcement officers (both for the police, prosecutors and judges). Improved understanding can be done through ongoing training or seminars. Of course, there are still many unknown aspects related to diversion. Must try to develop potential or human resources in the Res Unit. Drugs through participating in further training on narcotics and the modes in their distribution, so that in the future members of the Res Unit. Drugs have the ability and are more maximal in seeking law enforcement against narcotics crimes. Inviting all elements of society because in accordance with the law the community plays a role in handling, preventing, and distributing narcotics. It will be more intensive in carrying out arrest operations against narcotics crimes and raids which will be carried out more frequently in areas suspected of being areas prone to the spread or abuse of narcotics.

4. Clossing

Law Enforcement Against Criminal Acts of Narcotics Abuse by Children is The government and state institutions should provide special protection for children, and most specifically for children who are in conflict with the law and children who are victims of narcotics abuse. The problem is: Law enforcement officers or legal structures here are limited to the police, prosecutors and judges. Facilities and facilities in law enforcement are less supportive and incomplete. Community participation and control in some areas are still very low due to a sense of not caring about their own environment even though it is clearly seen directly that there are acts of narcotics abuse. The quality and quality of some police officers who work in

¹⁸Rendy Surya Aditama, Munsharif Abdul Chalim, *Kebijakan Hukum Pidana Terhadap Anak Sebagai Pelaku Kejahatan Psikotropika Di Kepolisian Resor Magelang* Jurnal Daulat Hukum Vol. 1. No. 1 March 2018 ISSN: 2614-560X

¹⁹Fiyana, Ika. (2017). *Upaya Kepolisian Dalam Menanggulangi Penyalahgunaan Narkoba di Kalangan Remaja (Studi Kasus di Polresta Surakarta)*. Program Studi Ilmu Hukum, Fakultas Hukum, Universitas Muhammadiyah Surakarta. p. 41

the Res Unit are still low. The efforts are: Increased understanding of the concept of diversion with restorative justice is aimed at law enforcement officers (both for the police, prosecutors and judges). Must try to develop potential or human resources in the Res Unit. Drugs through participating in further training on narcotics and the modes in their distribution, so that in the future members of the Res Unit. Drugs have the ability and are more maximal in seeking law enforcement against narcotics crimes. Inviting all elements of society because in accordance with the law the community plays a role in handling, preventing, and distributing narcotics.

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