

Application of Criminal Sanctions Against Children Who Commit Drug and Psychotherapy Crimes

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Abstract. *The purpose of this study is to determine and analyze the application of criminal sanctions against children who commit narcotics and psychotropic crimes based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. In addition, this study also aims to identify weaknesses in the application of these criminal sanctions and find solutions to overcome existing weaknesses, especially in the context of the application of the Law. The approach used in this study is normative juridical, namely an approach that focuses on legal analysis based on the norms contained in laws and regulations. This approach emphasizes the study of legal texts, such as laws, regulations, and court decisions, with the aim of understanding and interpreting applicable legal provisions. The results of the study indicate that the application of criminal sanctions against children in conflict with the law, in accordance with Law Number 11 of 2012, emphasizes the protection of children's rights. Special child officials play an important role from the investigation stage to the verdict, with detention as a last resort. However, there are weaknesses in the application of sanctions, especially the effectiveness of punishment for children who commit narcotics crimes. A six-month sentence in a Special Child Development Institution (LPKA) is often considered inadequate to provide a deterrent effect. Extending the sentence to two years is considered more effective for child rehabilitation and development. To overcome this weakness, more comprehensive implementation efforts are needed, including improving facilities and special officials, as well as optimizing the implementation of diversion which takes up to five years.*

Keywords: *Children; Crime; Narcotics; Psychotropics.*

1. Introduction

Indonesia as a country of law based on Pancasila and the 1945 Constitution of the Republic of Indonesia, has an obligation to create rules that regulate the order of community life that originates from the law. These rules are made to create security and order, where all actions and behavior of the community must be in accordance with the applicable legal values. In this context, every component of society must behave in accordance with the laws that have been established¹.

Law enforcement in Indonesia is in the spotlight of the public and the media because it is considered the main tool to combat the growing crime. Law enforcement officers are required to resolve legal problems so that the objectives of the law, namely legal certainty, justice, and benefit, can be achieved. Law enforcement is basically a process to realize these legal objectives.².

The development of technology in the era of globalization greatly affects human life, including in the field of law enforcement. Globalization brings changes that can have positive and negative impacts. One of the negative impacts is the increase in narcotics and psychotropic crimes that are transnational in nature and use sophisticated technology. Law enforcement officers must be able to prevent and overcome these crimes to protect the morality and quality of Indonesia's human resources.³.

Drug and psychotropic crimes have become a serious threat to human life. Although narcotics have benefits in treatment, their abuse can cause great harm to individuals and society, especially the younger generation. Drug abuse is often related to the illicit trafficking of narcotics involving international syndicates.

Children involved in criminal acts, including drug abuse, need to receive protection in accordance with the law. Children are the next generation of the nation who must be guarded and protected so that they do not become victims or perpetrators of criminal acts. Handling children involved in legal problems must prioritize the best interests of the child, in accordance with the principles of child protection.⁴.

¹Septha Dwi Hananto, Anis Mashdurohatun, Jawade Hafidz, Criminal Law Enforcement Against Drug User Defendants Undergoing Rehabilitation at the Central Java Regional Police, *Khaira Ummah Law Journal* Vol. 13. No. 1 March 2018, P. 221, url:<http://jurnal.unissula.ac.id/index.php/RH/article/view/13886>

²Bayu Puji Hariyanto, Prevention and Eradication of Drug Trafficking in Indonesia, *Jurnal Daulat Hukum* Vol. 1. No. 1 March 2018, p. 310, url:<http://jurnal.unissula.ac.id/index.php/RH/article/view/13886>

³Dafit Supriyanto Daris Warsito, The Criminal System for Narcotics Abuse Criminals, *Jurnal Daulat Hukum* Vol. 1. No. 1 March 2018, p. 110. url:<http://jurnal.unissula.ac.id/index.php/RH/article/view/13886>

⁴Juliana Lisa, Nengah Sutrisna. (2003). *Psychotropic Drugs and Mental Disorders*. Yogyakarta: Nuha Medika. p. 1

The resolution of cases of children in conflict with the law does not always have to go through the court process. One approach that can be used is diversion, namely the transfer of case resolution from the criminal justice process to the social process.⁵ Diversion aims to provide a more humane solution for children involved in drug abuse, in accordance with applicable legal provisions. The objectives of this study are as follows: To determine and analyze the application of criminal sanctions against children who commit narcotics and psychotropics crimes in accordance with Law Number 11 of 2012. To determine and analyze the weaknesses in the application of criminal sanctions against children who commit narcotics and psychotropics crimes in accordance with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. To determine and analyze how to overcome the weaknesses in the application of criminal sanctions against children who commit narcotics and psychotropics crimes in accordance with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

2. Research Methods

The approach used in this research Normative juridical is an approach in legal science that focuses on the study and analysis of law based on the norms contained in laws and regulations. This approach emphasizes the study of legal texts, such as laws, regulations, and court decisions, to understand and interpret the applicable legal provisions.⁶

3. Results and Discussion

3.1. Implementation of Criminal Sanctions Against Children Who Perpetrate Narcotics and Psychotropic Crimes Reviewed from Law Number 11 of 2012

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) is an important milestone in the Indonesian justice system, especially in terms of handling children involved in criminal acts, including narcotics and psychotropics. Children in conflict with the law require different treatment from adults because of their nature and psychological conditions that are still developing. Therefore, the SPPA Law emphasizes the importance of special protection for children to ensure that they are not only processed properly in the legal system, but also their rights are protected and given the opportunity for rehabilitation and social reintegration.

One of the main principles in the application of criminal sanctions against children is the use of detention as a last resort or known as "ultimum remedium". The SPPA Law emphasizes that child detention can only be carried out if absolutely necessary and there are no other alternatives. This principle is based on the awareness that detention, especially for long periods of time, can have a negative

⁵Romli Atmasasmita. (1996). The Indonesian Criminal Justice System. Jakarta: Putra Bardin. p. 33

⁶Ronny Hanitijo Soemitro. (1998). Legal Research Methods and Jurimetrics. Jakarta: Ghalia. p. 97

impact on the physical and psychological development of children. Therefore, maximum efforts must be made to find other alternatives, such as out-of-institutional guidance or rehabilitation programs that are more appropriate to the child's condition.⁷.

In addition, the SPPA Law also stipulates the children involved in criminal acts, including narcotics and psychotropic cases, must be handled by a Special Child Officer at every stage of the judicial process, from investigation to implementation of the verdict. This Special Child Officer has special expertise in handling child cases and is expected to be able to understand the psychological conditions and needs of children. Thus, handling of child cases can be carried out with a more sensitive and humane approach, which does not only focus on the legal aspect alone but also on the overall welfare of the child.⁸.

In the process of investigation and examination, the SPPA Law requires that it be carried out in a family atmosphere. This aims to create an environment that is not frightening for children and prevent negative psychological impacts that can arise from an intimidating or oppressive atmosphere. Examination in a family atmosphere is also expected to facilitate better communication between children and authorities, so that children can provide information more honestly and openly without feeling pressured.

The SPPA Law also regulates the fulfillment of children's needs during detention. In this case, the state is obliged to ensure that detained children continue to have access to education, health services, and other basic needs. Detention of children must not ignore their basic rights, and therefore, detention facilities must be equipped with adequate facilities to meet these needs. This is important to ensure that the detention period does not damage the child's development and that they can still grow and develop well even in difficult situations.⁹.

Legal protection regulated in the SPPA Law aims to ensure that the judicial process against children does not harm their development and welfare. In cases where children are involved in narcotics and psychotropic crimes, this law emphasizes a rehabilitation approach rather than punishment. Rehabilitation is seen as a more effective step in overcoming the problem of dependence on narcotics and psychotropics, as well as preventing children from falling further into the world of crime. Thus, the main objective of implementing criminal sanctions against

⁷Rendy Surya Aditama, Umar Ma'ruf, Munsharif Abdul Chalim, Criminal Law Policy Against Children as Perpetrators of Psychotropic Crimes at the Magelang Police, *Journal of Daulat Hukum* Vol. 1. No. March 1, 2018, p. 113, url<http://jurnal.unissula.ac.id/index.php/RH/article/view/13886>

⁸Fiska Ananda, Application of Diversion as Efforts to Protect the Law Against Children of Criminal Offenders, *Journal of Sovereign Law* Vol. 1.No. March 1, 2018, p. 5, url<http://jurnal.unissula.ac.id/index.php/RH/article/view/13886>

⁹Setiawan, Doni. (2012). *The Urgency of Restorative Justice in Indonesian Juvenile Criminal Law*. Semarang: Unissula Press. p. 10

children is to provide them with the opportunity to improve themselves and return to society as better individuals.¹⁰.

The implementation of the SPPA Law also involves the important role of families and communities in supporting children during the judicial process. Families are expected to provide emotional and moral support to children, while communities play a role in providing a supportive environment for the rehabilitation and reintegration of children after completing the judicial process. Cooperation between various parties, including the government, social institutions, and communities, is essential to ensure that children in conflict with the law receive the protection and support they need.¹¹.

However, the implementation of the SPPA Law in cases of narcotics and psychotropic drug crimes against children is not without challenges. One of the biggest challenges is how to ensure that the principles stipulated in the law are applied consistently in the field. Often, there is a difference between what is stipulated in the law and what happens in practice. For example, detention is still often the main option even though the law requires it to be a last resort. In addition, adequate rehabilitation facilities for children involved in narcotics and psychotropic drug cases are still limited, so that rehabilitation as an alternative to detention cannot be optimized.

To overcome this challenge, a strong commitment is needed from all parties involved in the juvenile criminal justice system.¹². The government needs to ensure that all officers involved in handling child cases, including law enforcement officers, rehabilitation officers, and the courts, receive adequate training on the implementation of the SPPA Law. In addition, it is also necessary to improve infrastructure and facilities that support the implementation of rehabilitation for children involved in narcotics and psychotropic crimes.¹³.

Overall, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System has provided a strong legal basis to protect the rights of children in conflict with the law, including in cases of narcotics and psychotropic crimes. However, the success of implementing this law is highly dependent on the commitment of all parties to consistently apply the principles stipulated in the law. Thus, the ultimate goal of the juvenile criminal justice system, namely rehabilitation and social

¹⁰Soekanto, Soerjono. (1983). *Factors Influencing Law Enforcement*. Jakarta: Rajawali, p. 60

¹¹Sri Endah Wahyuningsih, Legal Protection of Children as Victims of Crime of Decency in Current Positive Criminal Law, *Jurnal Pembaharuan Hukum* Volume III No. May 2 - August 2016, Unissula, p. 331 url <http://jurnal.unissula.ac.id/index.php/RH/article/view/13886>

¹²Kismanto, Anis Mashdurohatun, Legal Justice for Child Victims of Sexual Violence in Kendal Regency, *Khaira Ummah Legal Journal* Vol. 12. No. March 1, 2017, Unissula url <http://jurnal.unissula.ac.id/index.php/RH/article/view/13886>

¹³Simandjuntak. (1981). *Introduction to Criminology and Social Pathology*. Bandung: Tarsito. p. 71.

reintegration, can be achieved, and children in conflict with the law can return to society as better individuals.

3.2. Weaknesses in the Application of Criminal Sanctions Against Children Who Perpetrate Narcotics and Psychotropic Crimes Reviewed from Law Number 11 of 2012 Concerning the Juvenile Criminal Justice System

Weaknesses in the application of criminal sanctions against children involved in narcotics and psychotropic crimes are an important issue in law enforcement. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) was designed to protect the best interests of children, but its implementation often encounters various challenges. One of the main weaknesses identified is the effectiveness of punishment in providing a deterrent effect on child perpetrators.¹⁴

For example, when a judge sentences a child to six months in a Special Child Development Institution (LPKA), the view often arises that this punishment is not effective enough. A short prison sentence is considered less able to provide the deterrent effect needed to prevent a child from repeating his actions in the future.

The author argues that a six-month sentence is too short to change the behavior of children involved in drug abuse. The rehabilitation and coaching process requires a longer time so that children can understand the consequences of their actions and get adequate opportunities to improve themselves. Ideally, the criminal period for children involved in drug cases should be extended to nearly two years. This duration is considered more proportional to provide a deterrent effect while ensuring that children get enough time to undergo the rehabilitation process optimally.¹⁵

The purpose of this extended sentence is to provide a better opportunity for children to reflect on their actions and undergo intensive coaching. With a longer sentence, it is hoped that children can focus more on the rehabilitation process and gain a deeper understanding of the importance of staying away from narcotics.

The coaching system in LPKA is often criticized for being unable to provide holistic and sustainable coaching for children. The coaching approach that only lasts for a short time often does not have a significant impact on changing children's behavior. Therefore, an in-depth evaluation of this coaching system is needed to make it more effective. Short sentences may only have a short-term impact on children, where they only serve the punishment without really internalizing their

¹⁴Bakhri, Syaiful. (2012). *Narcotics and Psychotropic Crimes: An Approach Through Criminal Law Policy*. Jakarta: Gamarta Pub. p. 15

¹⁵Adji, Indriyanto Seno. (1998). *Torture and Human Rights in the Perspective of the Criminal Procedure Code*. Jakarta: Sinar Harapan Library. p. 4.

mistakes. In contrast, longer sentences provide an opportunity for children to truly understand the impact of their actions and commit not to repeat the same mistakes.¹⁶.

Effective rehabilitation is not just about the length of the sentence, but also the quality of the program provided. Children need a supportive environment and a program designed specifically to help them overcome the underlying issues that led to their involvement in drug abuse. Rehabilitation programs should focus on psychological, educational, and social aspects to ensure lasting change.

The involvement of counselors and psychologists in LPKA is very important to support the child rehabilitation process. They can provide the necessary assistance and help children to develop the social and emotional skills needed to avoid drug abuse in the future. Intensive and ongoing counseling is the key to effective child development.¹⁷.

Each child has a different background and needs, so a personal approach that is tailored to the needs of each child is essential. This approach allows the coaching program at LPKA to be more relevant and effective in helping children change. Based on the analysis above, there needs to be a revision in the juvenile justice system regarding the duration of sentences and the coaching approach at LPKA. This revision must consider the psychological aspects of children and the need for deeper rehabilitation so that the goals of the juvenile justice system are better achieved.

Overall, the effectiveness of criminal sanctions against children who commit narcotics and psychotropic crimes needs to be improved. By extending the duration of the sentence and improving the guidance system in LPKA, it is hoped that children involved in narcotics cases can truly understand their mistakes and change into better individuals in the future.

3.3. Overcoming Weaknesses in the Implementation of Criminal Sanctions Against Children Who Perpetrate Narcotic and Psychotropic Crimes Reviewed from Law Number 11 of 2012 Concerning the Juvenile Criminal Justice System

Addressing weaknesses in the implementation of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System requires serious attention to various aspects of implementation. Although this law provides a strong legal basis for child protection, its implementation faces significant challenges. Handling of child perpetrators of narcotics and psychotropic crimes requires adjustments and

¹⁶Hera Saputra, Munsyarif Abdul Chalim, Implementation of the Criminal System for Drug Abuse Offenders (Case Study at Polda Central Java), *Jurnal Daulat Hukum* Vol. 1. No. March 1, 2018, 421, url <http://jurnal.unissula.ac.id/index.php/RH/article/view/13886>

¹⁷Martono, Herlina and Satya Joewana. (2008). *Learning to Live Responsibly, Preventing Narcotics and Violence*. Jakarta: Balai Pustaka. p. 26.

improvements in order to meet the intended protection objectives. The need for continuous evaluation of the effectiveness of this policy is crucial in ensuring that children's rights are comprehensively protected in the legal process.¹⁸.

One of the main weaknesses in the implementation of this law is the lack of well-trained specialized officials. Law No. 11 of 2012 emphasizes the need for officials who understand child psychology and rehabilitation techniques. However, many regions still lack experts who meet these criteria, so the quality of handling of children's cases is often hampered. Addressing this shortage requires investment in training and capacity building of officials responsible for the juvenile criminal justice system.

Institutional facilities for children, such as the Special Child Development Institution (LPKA), are also areas that require more attention. The standards of facilities expected in this law are often not met. Some institutions still lack adequate facilities and infrastructure to support child rehabilitation. Improving these facilities must be a priority to ensure that the environment in which children serve their sentences supports the process of recovery and development, rather than worsening their condition.

Providing adequate legal aid is also an important aspect that is often overlooked. Law No. 11 of 2012 guarantees the right of children to receive free legal aid, but in reality, many children do not get proper access. Especially in remote areas, the availability of competent lawyers is still limited. Providing effective legal aid requires strengthening the legal service delivery system and increasing access for children in need.

The implementation of diversion in the juvenile criminal justice system is the main approach that is expected to divert children from the formal justice process. However, the implementation of diversion often encounters obstacles. This can be caused by a lack of understanding of the diversion mechanism among the parties involved or a lack of adequate system support. To improve this situation, intensive socialization and training regarding diversion procedures are needed for legal actors.

The five-year transition period provided by law for the implementation of the juvenile criminal justice system requires additional time for effective implementation. This process includes the provision of appropriate facilities and infrastructure, as well as adjustments to the existing legal administration system. During this transition period, it is important to conduct regular monitoring and

¹⁸M. Sholeh, Sri Endah Wahyuningsih, Analysis of the Application of Criminal Sanctions to Perpetrators of Criminal Offenses of Child Sexual Violence at the Demak District Court, *Khaira Ummah Journal of Law* Vol. 12. No. June 2, 2017, Unissula, p. 31
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evaluation to ensure that each step towards implementation is carried out properly and in accordance with the objectives of child protection.

Lack of coordination between various institutions and related parties is also an obstacle in the implementation of this law. For example, coordination between judicial institutions, correctional institutions, and social institutions is very important in ensuring that children involved in criminal cases receive appropriate treatment. Improving this coordination requires the establishment of effective communication mechanisms and integration between the various sectors involved in handling child cases.¹⁹

Evaluation of the effectiveness of rehabilitation programs implemented in Special Child Development Institutions needs to be done periodically. These programs must be designed by considering the individual needs of the child and the desired results. This evaluation not only looks at the successful aspects of rehabilitation, but also identifies areas that need improvement. This periodic assessment is important to adjust the program to the latest developments and needs of the child.

Another aspect that needs to be considered is the need to improve psychological support for children involved in the legal process. The ongoing legal process can affect the emotional well-being of children, so providing adequate psychological support is essential. Training mental health workers and service providers to understand the special needs of children in the criminal justice system is an important step in ensuring comprehensive protection.

Community and family involvement also plays a key role in the rehabilitation of children who have committed crimes. Support from the surrounding environment can accelerate the process of recovery and social reintegration of children. Programs that involve families and communities in the process of child rehabilitation can help create a more supportive environment for children involved in crime.

Consistent law enforcement against violations of children's rights in the criminal justice process must also be considered. Ensuring that all parties, including legal institutions and officials, comply with the standards set by law is important. Strict supervision and firm action against violations will ensure that children's rights remain protected and that the justice system operates in accordance with the principles of child protection.²⁰

¹⁹Suyanto, Bagong. (2003). *Child Labor and the Continuity of Their Education*. Surabaya: Airlangga University Press, p. 25

²⁰Martono, Herlina and Satya Joewana. (2008). *Learning to Live Responsibly, Preventing Narcotics and Violence*. Jakarta: Balai Pustaka, p. 31

Improving the quality of data and information on child offenders is also important to support better decision-making. Accurate data on cases involving children can help design more effective policies and programs. Systematically collecting and analyzing data will provide the insights needed to improve the juvenile criminal justice system.

Collaboration with non-governmental organizations (NGOs) that focus on child protection can also improve the effectiveness of the justice system. NGOs can provide additional support in terms of education, rehabilitation, and advocacy. Involving NGOs in the juvenile justice process can provide additional perspectives and support more comprehensive child protection and rehabilitation efforts.

Implementing a community-based approach to the prevention and handling of narcotics and psychotropic crimes is also important. Prevention programs involving local communities and schools can help reduce the number of cases involving children. Community involvement in crime prevention can reduce the stress faced by children and help prevent violations of the law. Finally, there needs to be a periodic review and update of existing laws and policies. Given the social dynamics and changes in society, laws must be able to adapt to the latest needs and challenges. Periodic reviews of the effectiveness of policies and regulations will ensure that the juvenile criminal justice system remains relevant and is able to provide optimal protection in accordance with current developments.

4. Conclusion

The application of criminal sanctions against children who commit narcotics and psychotropic crimes based on Law No. 11 of 2012 concerning the Juvenile Criminal Justice System emphasizes special protection of the rights of children in conflict with the law. However, the effectiveness of punishment in providing a deterrent effect is still a challenge, especially when the prison sentence imposed is considered too short to change the child's behavior. For example, a sentence of six months in a Special Child Development Institution (LPKA) is often considered insufficiently effective. To overcome this weakness, improvements are needed in the implementation of the law, such as extending the sentence and ensuring the completeness of the facilities and infrastructure needed, including special officials and child institution facilities. In addition, the implementation of diversion requires time to be implemented properly in order to provide more comprehensive protection and guidance for child lawbreakers.

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