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LEGAL PROTECTION OF THE CHILDREN INVOLVED NARCOTICS ABUSE CRIMES IN THE JURISDICTION OF SABANG CITY

By

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ABSTRACT

Legal protection for drug users, according to Law No. 35 of 2009 concerning Narcotics, is provided through medical and social rehabilitation for addicts and victims of abuse. Law No. 35 of 2014 concerning Child Protection provides special protection for children as drug users, which also views children as both victims and perpetrators. Therefore, priority is given to supervision, treatment, and rehabilitation, rather than just criminalization. Legal provisions for children in conflict with the law are in accordance with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Legal accountability for children who use narcotics uses a juvenile criminal justice system that prioritizes action and rehabilitation, not just criminal penalties, with a maximum penalty of half the adult penalty. Children are considered both perpetrators and victims, so that in addition to criminal sanctions, judges can also impose rehabilitation and guidance measures to restore children and prevent them from abusing drugs again, in accordance with the Narcotics Law and the Child Protection Law. Legal protection for children as perpetrators of narcotics crimes, if the child is a perpetrator of narcotics abuse, prioritizes the granting of rehabilitation rights over prison sentences.

Keywords: Legal protection, Children, Narcotics.

PERLINDUNGAN HUKUM TERHADAP ANAK YANG TERLIBAT TINDAK PIDANA PENYALAHGUNAAN NARKOTIKA DI WILAYAH HUKUM KOTA SABANG

ABSTRAK

Perlindungan hukum bagi pengguna narkoba menurut UU No. 35 Tahun 2009 tentang Narkotika adalah melalui rehabilitasi medis dan sosial bagi pecandu dan korban penyalahgunaan, sedangkan UU No. 35 Tahun 2014 tentang Perlindungan Anak memberikan perlindungan khusus kepada anak sebagai pengguna narkoba, yang juga memandang anak sebagai korban sekaligus pelaku, sehingga prioritas diberikan pada upaya pengawasan, perawatan, dan rehabilitasi, bukan hanya pemidanaan. Pengaturan hukum bagi anak yang berkonflik dengan hukum menurut Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak. Pertanggungjawaban hukum terhadap anak pengguna narkoba menggunakan sistem peradilan pidana anak yang mengutamakan tindakan dan rehabilitasi, bukan hanya pidana, dengan sanksi maksimal setengah dari pidana dewasa. Anak dianggap sebagai pelaku sekaligus korban, sehingga selain sanksi pidana, hakim juga dapat menjatuhkan tindakan rehabilitasi dan pembimbingan untuk memulihkan anak dan mencegahnya kembali menyalahgunakan narkoba, sesuai dengan Undang-Undang Narkotika dan UU Perlindungan Anak. Perlindungan hukum terhadap anak sebagai pelaku tindak pidana narkoba dalam hal anak tersebut merupakan pelaku penyalahguna narkoba maka



lebih mengedepankan pemberian hak rehabilitasi dibanding dengan putusan pidana penjara.

Kata Kunci: *Perlindungan Hukum, Anak, Narkotika.*

INTRODUCTION

The process of social change that is taking place in Indonesia also marks the development of cities with the complexity of their functions that no longer only have administrative and commercial functions, but grow as nodes of social interaction that affect the value system and norms as well as the behavior of citizens. Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semisynthetic, that can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence. Narcotics are drugs or materials that are useful in the fields of medicine, health services, and scientific development. Narcotics can also cause very detrimental dependency if used without strict and careful control and supervision.

The circulation of narcotics in Indonesia when viewed from a juridical aspect is legitimate if it is held and used for medical and scientific purposes, as stated in Article 7 of Law No. 35 of 2009 which reads: "Narcotics can only be used for the benefit of health services and/or the development of science and technology". Law No. 35 of 2009 concerning Narcotics only prohibits the use of narcotics without a permit by law. Such a situation in the field is that the use of narcotics is often misused not for the sake of medicine and science. Narcotics is also used as a promising and rapidly growing business venue, which has an impact on the physical and psychological damage of narcotics users, especially the younger generation.

Narcotics abuse is a type of crime that has a very wide and complex social impact, especially when the perpetrators are children. The social impact of narcotics abuse carried out by children is not only caused by the consequences that will give birth to suffering and destruction both physically and mentally that is very long, but also because of the complexity in dealing with it, especially when the choice falls on the use of criminal law as a means. In accordance with the characteristics that exist in children, they require special attention, considering that children have characteristics where their physical and mental condition is immature. The use of criminal law as a means of coping with narcotics abuse carried out by children is essentially a dilemmatic choice. The ability of criminal law as a means of dealing with narcotics abuse



committed by children is very limited. Indications of this include seeing an increasing number of narcotics abuse carried out by children, while on the other hand there is a tendency to always use the criminal law as a means of dealing with narcotics carried out by children even though reality shows that criminal justice as a means of dealing with narcotics abuse carried out by children often presents itself only as a legal "machine" that only produces "procedural justice.

RESEARCH METHODS

This research is descriptive analysis, namely research that describes, examines, explains and analyzes laws and regulations related to the purpose of this research. The purpose of descriptive research is to accurately describe the characteristics of a particular individual, state, symptom or group, or to determine the frequency or spread of a symptom or the frequency of a particular relationship between symptoms and other symptoms in society. The main purpose of the analysis of legal materials is to find out the meaning contained by the terms used in the legal rules conceptually, as well as to know their application in legal practice and decisions.

RESULTS AND DISCUSSION

Children are part of the younger generation, as one of the human resources who are the potential and successors of the ideals of the nation's struggle, which has a strategic role, has special characteristics and characteristics that require guidance and protection in order to ensure physical, mental and social growth, in a completely harmonious and balanced manner. Children as the next generation who are often heralded as the heirs of the nation, the young shoots of the nation's hope, in every age have the responsibility to carry out the nation's struggle in achieving national ideals as mandated in the 1945 Constitution.

The concept of juvenile delinquency, according to Romli Atmasasmita in Wagianti Soetodjo, the use of the term "*Juvenile Delinquency*" is any act or behavior of a child under the age of 18 years and unmarried which is a violation of applicable legal norms and can endanger the personal development of the child concerned. A common term, the word "*Juvenile*" is often used as another term for children. There are two interpretations of this term in its meaning:



first, the definition of children for the consideration of law enforcement officials (Police, Prosecutors, Judges) in order to apply criminal policies to the juvenile justice process. From the first, this is only intended to distinguish between criminal offenders who are still children (*non-adult offenders*) and adult *offenders*. Then the second meaning is the meaning of being a teenager, this designation is usually based on a person's psychological condition, which at the age of teenagers is often referred to as a teenager. However, this definition is not accepted by everyone, because the definition of "*juvenile*" is too general and includes all people who are young in age. According to Kartini Kartono in Wagiaty Soetodjo, what is said to be *juvenile delinquency* is the evil behavior of young people, which is a symptom of social illness (pathology) in children and adolescents caused by a form of social neglect so that they develop a form of neglect at a deviant level of practice.

Romli Atmasasmita in Wagiaty Soetodjo said that criminal acts against children are actions committed by children that are considered contrary to the provisions of the law applicable in a country, which are felt and interpreted by the community as reprehensible acts. Delinquency in this case is an act that contains elements of a reprehensible act that is considered a violation of the law, at least the act can disturb the peace of others or the surrounding community. Children as part of the younger generation are the successors to the ideals of the nation's struggle and human resources for national development. In various ways, efforts to protect children are faced with problems and challenges that can directly or indirectly affect children's behavior and behavior.

Changes in the lifestyle and way of life of some people have brought fundamental social changes in social life which of course affect children's values and behavior. In addition, children who lack or do not receive affection, nurturing, guidance, and coaching in the development of attitudes, behaviors, self-adjustment, and supervision from parents, guardians, or foster parents will be easily dragged into the flow of society and the environment that is unhealthy and detrimental to their personal development. Deviations in behavior or unlawful acts committed by children according to the general explanation of Law Number 11 of 2012 are caused by various factors. These factors include:

- The negative impact of development development



- The flow of globalization in the field of communication and information
- Advances in science and technology.

Facing and overcoming the behavior of delinquent children needs to consider various factors behind it. Although children are able to determine their own actions based on their thoughts, feelings, and wills, the surrounding circumstances can affect their behavior. For this reason, guidance and guidance from parents and the surrounding community are needed. If there is a lack of identification between parents and children, they will live in their respective worlds with almost nothing in common with each other. Parents often do not know what their children are doing and children do not know about their parents' activities. Thus, a directed fundamental is needed to create harmony in family life so as to create a potential generation. Parents must be role models for their children, this is very important for a child's *sense of belonging*, the moral code applied at home should not deviate from the moral code in schools and the community environment so that children can understand and not seek the truth in their own way.

Children are an inseparable part of human survival and the survival of a nation and state. In the Indonesian constitution, children have a strategic role which is expressly stated that the state guarantees the right of every child to survival, growth, and development as well as to protection from violence and discrimination. Therefore, the best interests of children should be lived as the best interests for the survival of humanity. The consequences of the provisions of Article 28B of the 1945 Constitution of the Republic of Indonesia need to be followed up by making government policies aimed at protecting children. Children need to be protected from the negative impact of rapid development, globalization in the field of communication and information, advances in science and technology, and changes in the lifestyle and way of life of some parents that have brought fundamental social changes in people's lives that greatly affect children's values and behavior. Deviations in behavior or unlawful acts committed by the child, among others, are caused by factors outside the child. A crime, delinquency or criminal act committed by a person must have a cause that is the background for why the act was committed. The factors that encourage the act to be carried out are often also referred to as motivation where it contains elements of intention, desire, will, impulse needs, ideals which



are then manifested by the birth of deeds, as well as criminal acts committed by children are inseparable from factors that support children who commit criminal acts.

Narcotics abuse is a form of behavioral deviation. Whatever the cause, the important message is that the use of narcotics outside of medical needs is dangerous, destructive and causes an unbearable burden on oneself, family, society, nation and humanity. Narcotics abuse is the use of narcotics inappropriately, without rights and against the law. An example is consuming narcotics medically inappropriate (not according to the dosage and clinical indications) and legally invalid (not a person/institution licensed to use it, distribute it or produce it).

According to Subagyo Partodiharjo, in general, narcotics abuse consists of four stages, namely: the trial stage, the beginner stage, the periodic stage, and the fixed or solid stage, the details of which are as follows:

- The trial and error stage is the initial stage in the use of narcotics. At first it was just trying, then it became willing again and again. It is very difficult to recognize the initial symptoms of narcotics use because the signs of changes in the body as a result of narcotics have not been seen. Only people who are sensitive and truly familiar with the user can feel a slight change in behavior such as: fear and shame caused by feelings of guilt and sin.
- The beginner stage, which is an improvement from the trial and error stage, takes longer to get used to. The child begins to use narcotics incidentally (in sad times, or when he wants to go to a party), and already feels the pleasure. The symptoms that appear at this stage are psychologically becoming more closed, the soul is restless, restless, less calm and more sensitive, and physically varies according to the type of narcotics used, can change to be more agile, more jovial, and more confident and vice versa can change to appear calmer or sleepy.
- The periodic stage, is a continuation of incidental wearers who are encouraged to wear it more often. In addition to feeling good, users also feel pain if they are late or stop taking narcotics, which is commonly called the condition of sakaw. The symptoms that appear at this stage are psychologically difficult to get along with new friends, the personality becomes more closed, more sensitive, irritable, begins to like to lie, and



physically when wearing it looks normal, when not wearing it looks unhealthy, less confident, moody, restless, lazy, more obvious than the second stage (beginner).

- The madat stage is a demand from the body of narcotics users on a regular basis. His own body demands to use more and more often with higher doses, and if he does not use it will experience suffering (*sakaw*). At this stage, the user can no longer escape from narcotics at all. The symptoms that appear at this stage are: psychologically difficult to get along with new friends, sensitive, irritable, selfish, wanting to win on their own, fond of lying and cheating, often stealing, robbery, shameless in order to get money for narcotics, and physically thin, weak, lethargic, sunny eyes, yellowish and porous teeth, and there are incision marks or syringes.
- The impact or adverse consequences of narcotics abuse, according to Subagyo Partodiharjo, include the impact on the physical, the impact on mental and moral, and the impact on the family, society, and the nation. The impact on the physical, the use of narcotics that have reached the periodic stage will experience *sakaw* (unbearable pain) if prolonged consumption of narcotics, narcotics users can also experience damage to the body's vital organs as a direct result of the presence of narcotics in the blood, such as: damage to the lungs, kidneys, liver, brain, heart, and intestines. Meanwhile, secondary diseases caused by the use of narcotics are infectious diseases such as hepatitis B/C, HIV/AIDS, and syphilis (a type of venereal disease caused by *spirochaeta pallid bacteria*).
- Overdose use will result in death. Impact on mental and morals, the use of narcotics in the form of physical damage such as damage to brain cells, nerves, and all body tissues, along with other vital organs of the body can cause stress in the person concerned, so that all the suffering experienced makes changes in nature/temperament, attitude, and behavior such as: paranoid or always suspicious and hostile, psychosis or evil, not even caring about others (asocial). Even because it has become an addiction, there are also many narcotics abusers whose mental and moral damage is corrupted, then become fraudsters, criminals, and murderers just to get money so they can buy narcotics.



- The impact on the family, society, and nation includes psychological problems, economic/financial problems, as well as problems of violence and crime. Psychological problems will arise in families that have family members who abuse narcotics, including disturbances of harmony in the household due to shame to neighbors and society. Economic/financial problems will also afflict families and communities who have family members/community members as narcotics abusers. A lot of money is wasted on long-term treatment and there are many thefts or loss of goods in the family/community.

CONCLUSION

The legal regulation of the crime of narcotics abuse by children in Indonesia is regulated in Law Number 35 of 2009 concerning Narcotics and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System is by imposing a criminal penalty or action on the child perpetrator of narcotics crimes. Legal accountability for children involved in the crime of narcotics abuse is that even though the child remains responsible for his or her actions, the juvenile criminal justice system emphasizes coaching and rehabilitation, not solely criminal retribution. The sentences imposed on children of drug abuse offenders will be lighter than adults, with the maximum prison sentence being half the prison sentence for adults. Legal protection of children as perpetrators of narcotics crimes in the event that children in the jurisdiction of the city of Sabang are perpetrators of narcotics abuse, so it prioritizes the provision of rehabilitation rights rather than prison sentences and return to parents or families.

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