

Legal Review of Child Protection Against Narcotics Threats

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Abstract

Children are a particularly vulnerable age group to the effects of drug abuse. When they are exposed to and try illicit substances, it can disrupt their physical health, education and social life. Prolonged use can even cause permanent damage to the body. Given their vulnerability, children have special rights guaranteed by legislation, including protection from the dangers of drugs. This paper examines two main issues: first, the impact of drug abuse on children as victims; second, the role of the state in protecting children from this threat. This study aims to understand the level of vulnerability of children to drug abuse and the forms of legal protection that can be provided. The research used is normative research. Repressive approaches such as criminalization are not the main solution. The state needs to prioritize a restorative approach through physical and mental health recovery and social reintegration. The goal is to ensure that children can return to live a healthy, productive life and have a bright future.

Keywords: *Legal Protection, Drug Abuse, Restorative Approach.*

Abstrak

Anak-anak merupakan kelompok usia yang sangat rentan terhadap dampak penyalahgunaan narkoba. Ketika mereka terpapar dan mencoba zat terlarang, hal tersebut dapat mengganggu kesehatan fisik, pendidikan, dan kehidupan sosial mereka. Penggunaan berkepanjangan bahkan dapat menyebabkan kerusakan permanen pada tubuh. Mengingat kerentanannya, anak-anak memiliki hak-hak khusus yang dijamin oleh peraturan perundang-undangan, termasuk perlindungan dari bahaya narkoba. Tulisan ini mengkaji dua hal pokok: pertama, dampak penyalahgunaan narkoba terhadap anak sebagai korban; kedua, peran negara dalam melindungi anak-anak dari ancaman tersebut. Kajian ini bertujuan memahami tingkat kerentanan anak terhadap penyalahgunaan narkoba serta bentuk perlindungan hukum yang dapat diberikan. Penelitian yang digunakan adalah penelitian normatif. Pendekatan represif seperti pemidanaan bukanlah solusi utama. Negara perlu mengedepankan pendekatan restoratif melalui pemulihan kesehatan fisik dan mental serta reintegrasi sosial. Tujuannya adalah memastikan anak-anak dapat kembali menjalani kehidupan yang sehat, produktif, dan memiliki masa depan yang cerah.

Kata Kunci: Perlindungan Hukum , Penyalahgunaan Narkotika, Pendekatan Restoratif.

A. INTRODUCTION

One of the major problems that many countries face is the illegal use of narcotics. Using drugs has negative effects on society as a whole in addition to affecting the individual using the drugs. Children are a particularly vulnerable age group to drug use. Children who abuse drugs pose serious risks to their health, education and social development. The world is evolving today, and crime is also evolving with it. As an illustration, consider the social phenomenon known as drug crime. This crime is not only committed by individuals; it also involves certain social groups. Drug abuse has a negative impact on the community, the nation, and society as a whole. Drugs were once used for medical purposes, but nowadays many people abuse them so that they can cause negative damage if they consume them and are highly addictive.

Easy access to drugs today is made possible by advanced technological advances. Even worse, modern drug crimes involve not only adults but also children under the age of 18 (Lukman, 2021). Children are important assets for the future of a country, and they have rights that must be upheld. One of the most important rights is the right to a healthy life, a safe environment to grow up in, and the best education possible. Legal protection for children who use drugs is essential to ensure that their rights are protected and prevent unwanted side effects.

Narcotics itself is defined as substances or drugs derived from plants or also not from plants, whether synthetic or not, which endanger anyone and if consumed excessively will cause death. Narcotics should not be openly used or traded; they can only be used in

the field of health, particularly medicine. However, they are often seen as godsend that can improve and restore self-confidence, help with recovery from life's challenges, and also boost self-confidence.

Parents are not the only individuals who must protect their children from drug abuse; it is the responsibility of all *stakeholders*. Everyone without exception seeks and restores their right to obtain substance abuse rehabilitation, where the situation of the child as a victim is a party who suffers not only limited to the provision of drugs or medical treatment but also based on legal provisions there are compensation to be paid for the suffering they experience, due to drug use by the child. In the effort to impose penalties on children who commit drug crimes, there needs to be legal protection that can ensure their rights are respected while placing the undisturbed development of children as individuals with good morals at the top of the list

Based on this background, it will be discussed about how the impact on children as victims of drug abuse and what forms of protection against children for drug abuse.

The purpose of writing this journal is:

1. To find out the impact on children as perpetrators of narcotics crimes.
2. To find out the form of legal protection against children as perpetrators of narcotics crimes.

B. RESEARCH METHODS

The research method used in this journal is a normative legal research method, which examines norms, legal theories and refers to the approach of legislation as an object this study to determine the suitability of applicable written regulations. This research uses primary legal sources in the form of

regulations in the Law on Narcotics, Law on the Child Criminal Justice System, Law on Child Protection and secondary legal sources, namely law books and legal journals.

C. RESULTS AND DISCUSSION

1. Impact on children as victims of drug abuse

Definition of Children According to the Criminal Code (KUHP) Children in criminal law are placed in the sense of a child who is not yet an adult, as a person who has special rights and needs to be protected according to applicable legal provisions. The definition of children in criminal law raises positive legal aspects towards the process of normalizing children from deviant behavior to form personalities and responsibilities, which in the end the child is entitled to proper welfare. We can take the definition of a child in the Criminal Code as an example in Article 287 of the Criminal Code, which states that a minor is when the child has not reached the age of 15 (fifteen) years. Definition of Children According to Law No. 11 of 2012 concerning the Juvenile Criminal Justice System Definition of Children according to this Law called Children who have reached the age of 12 (twelve) years, but not yet 18 (eighteen) years old allegedly one of the biggest threats to Indonesia is drug use. The drug trafficking mafia primarily targets millennials and Generation Z in marketing and selling their products. As a result, the distribution problem of illicit substances is more likely to impact the younger generation. When the amount of consumption is large, the side effects of drug use can also result in mental and psychological problems in addition to physical problems. Indonesia has grown to become the final destination for drug trafficking after previously only being a transit country. This is evidenced by its geographical location that facilitates

the entry of the illegal drug trade. This eventually attracts many users. Drugs can be used through experimentation, without injections, or with injections when abused.

Drug use by students can be considered a sign of easy access to drugs. Students use drugs for various reasons, such as friend requests, trial and error, and inability to cope with their own problems. Older students. It is true that he became a drug user when he was a teenager and was trying to find his identity (Gilza Azzahra, 2021). To help people understand the risks of drug use, neighborhoods, households and institutions need to provide guidance. Authorities should also take more action to ban dealers who sell to students and children. Drug trafficking can be prevented by breaking the chain of drug dealers, not drug users without affecting the supply chain. The use of drugs can have serious long-term effects. The chemicals used affect the consequences. Drug use, however, essentially prevents students from maintaining their previous level of health because an addict cannot recover but improve. When the amount of consumption is large, the side effects of drug use can also result in mental and psychological problems in addition to physical problems and the many negative impacts of long-term drug use (Hayyun, 2012). These problems will affect their educational experience and social life. Addiction will impact on an individual's social and academic life, causing them to interact less with others.

The negative impacts of drug abuse include (Anggreni, 2015):

- a. Dehydration. Substance abuse can lead to a reduction in the electrolyte balance in the body, so the body will feel dehydrated.
- b. Hallucinations. As drug use continues, the side effects can also be long-term, including mental disorders, excessive and persistent anxiety, and acute depression.

- c. Decreased level of consciousness. The use of drugs in doses that exceed the normal dose can have an impact on the body so that it becomes too relaxed which can cause consciousness to decrease drastically. Another impact of drug abuse is also a high risk of memory loss so that it will be difficult to recognize the surrounding environment.
- d. Health problems and death. The worst impact of drugs can be felt when a person uses the substance in high doses or better known as overdose, which in the end can also end in loss of life. Meanwhile, the use of drugs by Penasun (injecting drug users) is very risky for contracting HIV/AIDS, for which there is currently no cure.
- e. Impaired Quality of Life. Drug use is only allowed for medical needs with a doctor's supervision or for research purposes. Apart from that, narcotic substances do not have a long-term positive impact on the body. Taking drugs can disrupt quality of life, damage relationships with family or relatives, reduce health and even cause death.

Furthermore, there is another impact:

- a. Physical Impact
 - 1) Disorders of the nervous system (neurological) such as: convulsions, hallucinations, impaired consciousness, peripheral nerve damage.
 - 2) Heart and blood vessel (cardiovascular) disorders such as: Acute infection of the heart muscle, circulatory disorders.
 - 3) Skin disorders (dermatological) such as: abscesses, allergies, eczema.
 - 4) Pulmonary disorders such as: suppression of respiratory function, difficulty breathing, hardening of lung tissue.
 - 5) Frequent headaches, nausea and vomiting, lightheadedness, increased body temperature, liver shrinkage and sleeplessness.

- 6) Endocrine disorders, such as: decreased function of reproductive hormones (estrogen, progesterone, testosterone), and impaired sexual function.
 - 7) Changes in menstrual periods, menstrual irregularities, and *amenorrhoea*.
 - 8) Drug users who inject drugs through needles, especially those who use syringes interchangeably, are at risk of contracting Shepatitis B, C, and HIV, for which there is no cure.
 - 9) Drug consumption exceeds the ability (over dose and causes death).
- b. Psychological Impact
- 1) Sluggish work, sloppy work, frequent tension and restlessness.
 - 2) Loss of confidence, apathy, delusional, suspicious.
 - 3) Agitative, violent and brutal behavior.
 - 4) Difficulty concentrating, feeling upset and depressed.
 - 5) Tendency to self-harm, insecurity, and even suicide.
- c. Social Impact
- 1) Mental illness, anti-social and immoral, ostracized by the community.
 - 2) Troublesome and a burden on the family.
 - 3) Education is disrupted, the future is bleak.

2. Forms of child protection for drug abuse

Legal protection is protection given to legal subjects in the form of devices, both repressive and preventive, written and oral. It can also be stated as a description of the function of law, which has the concept that law provides order, justice, certainty, peace and peace of expediency. The rule of law is aimed at providing legal protection for the people based on two principles of the rule of law, among others:

- a. Repressive Legal Protection aims to resolve disputes.

- b. Preventive Legal Protection is legal protection for people who are given the opportunity to submit objections, before government decisions become definitive.

Children are special legal subjects, whose rights are protected and regulated in special laws and regulations. Related to the case of children who commit narcotics crimes, in the Law Children are different individuals with protected rights and are subject to laws and regulations that are specific to individuals. The Child Protection Law and the Juvenile Justice System Law regulate legal protection for children in conflict with the law in relation to cases of children committing drug offenses. So, in this case, there are different punishments for adults and children. From the lengthy procedure of establishing the Child Protection Law, it is clear that the state addresses the issue of child protection in Indonesia with great care. This serious concern relates to the protection and enforcement of the rights of all children, including those who use substances. The Child Protection Law stipulates special protection for children who are victims of abuse of narcotics, alcohol, psychotropic substances and other addictive substances (drugs) (Pribadi, 2018).

The government and other state institutions are obliged and responsible for providing special protection to children, one of which is children who are victims of narcotics, alcohol, psychotropic and other addictive substances (drugs) abuse. Meanwhile, Article 127 regulates that every person who abuses narcotics class I, II, III for themselves is punished with a maximum imprisonment of 4 (four) years each. 2 (two) years and 1 (one) year. If we look at the two articles, Article 111 the perpetrator is threatened with a maximum imprisonment of 12 (twelve) years, then the punishment is above 7 (seven) years or exceeds what is required in diversion. Article 127 carries a maximum imprisonment of 4 (four) years or than 7 (seven) years and mandatory diversion. Thus, Article 127 is the most likely article for diversion. Article 111 of the

Narcotics Law does not fulfill the requirements for diversion, while Article 127 of the Law a quo, fulfills the requirements for diversion, so the legal protection of children who abuse drugs who are in the juvenile criminal justice system in Indonesia, can be done by rehabilitation. If a child is declared to have abused drugs, then based on statutory regulations, the child is obliged to be rehabilitated (Erni Agustina, 2018).

For former drug users who need treatment, the government also provides social rehabilitation programs that are implemented in social rehabilitation centers. In addition, children of drug users receive special legal protection from the government. The aforementioned extraordinary security is realized through rapid response policies, such as medical and/or physical rehabilitation, psychological, and rehabilitation. In terms of rehabilitation, the government also provides social rehabilitation facilities for former drug addicts carried out at social rehabilitation institutions. Furthermore, the legal protection carried out by the government against children abuse drugs is by special protection. The special protection in question is carried out through rapid handling efforts, including physical, psychological, and social treatment and or rehabilitation, as well as prevention of disease and other health problems. Psychosocial assistance during treatment until recovery. Providing social assistance for children who come from poor families. Providing protection and assistance in every judicial process (Anwar, 2019). Protection efforts for children abuse drugs are carried out through supervision, prevention, treatment and rehabilitation efforts by the government and society. Supervision and prevention are included in preventive efforts. Prevention efforts that can be carried out include controlling the circulation of all types of drugs and food (Wairocana, 2018).

The imposition of punishment in the form of imprisonment against children is not the only method or solution that can be done if it is intended as a preventive effort or

prevention to improve children to become better human beings in the future and not repeat their crimes. There are still other ways that are more effective in dealing with this such as Social Rehabilitation carried out at the LPKS (Social Welfare Institution) for children, agencies or institutions that handle child protection or child social welfare institutions, and in the family environment/substitute family. Social rehabilitation is a process of integrated recovery activities, both physical, mental and social, so that children can return to carrying out social functions in life in the community. Social rehabilitation is much more functional for the child's future. Legal protection for victims of narcotics abuse according to Law NO. 35 of 2009 concerning Narcotics is a rehabilitation measure not a prison sentence, this rehabilitation measure must be carried out for addicts and victims of narcotics abuse with the aim that they recover from narcotics dependence (addiction) and for addicts and narcotics can develop their physical, mental and social abilities again and can carry out their social functions community life (Bumi, 2022).

Evidence in rehabilitation measures for addicts and drug is mentioned in Law No. 35/2009 on Narcotics. 35 Year 2009 on Narcotics. In its implementation, the Supreme Court issued Supreme Court Circular Letter (SEMA) No. 4/2010 on the placement of victims of drug abuse and addicts in medical and social rehabilitation institutions, and Supreme Court Circular Letter (SEMA) No. 3/2011 on the placement of victims of drug abuse medical and social rehabilitation institutions.

Other legal provisions in placing victims of drug users in medical and social rehabilitation are also contained in Government Regulation No. 25/2011 concerning the implementation of Mandatory Reporting of Narcotics Addicts. Based on the government regulation, it provides and/or victims of drug abuse to get treatment and/or care through medical rehabilitation and social rehabilitation. Government Regulation No. 25/2011 is a

derivative of Article 54 and Article 55 of the Narcotics Law. Article 54 states that drug addicts and victims of drug abuse must undergo medical rehabilitation and social rehabilitation. Meanwhile, Article 55 paragraph (1) explains that parents or guardians of drug addicts who are not of legal age are obliged to report to community health centers, hospitals, and/or medical rehabilitation and social rehabilitation institutions appointed by the government to receive treatment and/or care through medical rehabilitation and social rehabilitation. Article 55 paragraph (2) for drug addicts who are of legal age are obliged to report themselves or be reported by their families to public health centers, , and/or medical rehabilitation and social rehabilitation institutions designated by the government to receive treatment and/or care through medical rehabilitation and social rehabilitation. According to legal observers, the Narcotics Law only places drug users as criminals, including their family and friends. Drug users, according to Simplex, are different from corruptors because drug users commit crimes for themselves. Meanwhile, corruptors have taken other people's rights. Simplex concluded that drug users are not criminals and therefore should not be sentenced to imprisonment. The issuance of SEMA No. 04/2010 has provided a guide for judges to place drug addicts into medical and social rehabilitation institutions. The main consideration is that the spirit of the Narcotics Law is to recognize drug addicts as criminals and protect drug addicts and victims of drug abuse by placing them in medical and social institutions.

However, there are also provisions that regulate drug criminal sanctions against children who commit drug abuse crimes must be in accordance with Articles 112 and 127 of Law No. 35 of 2009 concerning narcotics. The law stipulates that every person who suffers from the use of class I drugs can be punished with a maximum imprisonment of 4 years and victims of abuse are obliged to undergo medical and social rehabilitation As

for children who abuse drugs, the criminal handling is regulated in Article 71 of the Law on Juvenile Justice System. However, the length of punishment is limited by Article 79 of the Juvenile Justice System Law that the maximum punishment that can be imposed on a child is at most ½ (half) of the maximum punishment for a child with an adult (Harahap, 2001).

In order to maximize protection for children in Indonesia, especially legal protection, Law No. 23 of 2002 concerning Child Protection was issued. Along with the development, the Child Protection Law was then amended through Law NO. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning child protection.

D. CLOSING

1. Summary

Drug use by students can be considered a sign of easy access to drugs. Students use drugs for various reasons, such as friend requests, trial and error, and inability to cope with their own problems. Older students. It is true that he became a drug user when he was a teenager and was trying to find himself. To help people understand the risks of drug use, neighborhoods, households, and institutions need to provide guidance. Authorities should also take more action to ban traffickers who sell to students and children. Drug trafficking can be prevented by cutting off drug dealers, not drug users without affecting the supply chain. The use of drugs can have serious long-term effects.

The government and other state institutions are obliged and responsible for providing special protection to children, one of which is children who are victims of narcotics, alcohol, psychotropic and other addictive substances (drugs) abuse. Protection efforts children who abuse drugs are carried out through supervision, prevention,

treatment and rehabilitation efforts by the government and the community. Supervision and prevention are included in preventive efforts. Prevention efforts that can be done include controlling the circulation of all types of drugs and food. If a child is found to have abused drugs, then based on the legislation, the child is obliged to be rehabilitated in accordance with the provisions of the law.

2. Advice

Based on the research results and conclusions previously described, the researcher provides several suggestions, including the following:

- a. Learning activities to foster journal writing skills are still general in nature with case studies on legal research papers. Therefore, it is necessary to conduct a more in-depth study to learn the characteristics of legal research journals and how to foster the skills of writing such journals.
- b. Students' experience in conducting research and writing journals is needed to increase the level of students' skills in conducting research and writing journals. Therefore, it is expected that every lecturer can implement the results of this study in many courses before writing a thesis.

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