
Criminal Responsibility of Perpetrators of Narcotics Trafficking by Children

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ABSTRACT

The purpose of this study is to analyze whether children are ensnared by criminal crimes, who are devoted to children as drug traffickers. Child rights governed under laws are optimally implemented by national narcotics agencies when dealing with child trafficking. This research uses a normative approach with the use of descriptive-analytical secondary data. The child should also have the same due due as an adult. Each child even has certain rights when a child is dealing with the law. As a result of this study, BNN will continue to seek to fulfill the rights of every child governed under the laws of law.

Keyword : Kids, Narcotics, Drug dealers, Criminal liability

INTRODUCTION

Narcotics are referred to as substances or drugs that are made or taken from plants or non-plants, either using chemicals or natural ingredients that undergo processing, which results in lowering or changing the state of consciousness, loss of taste, reduced to the disappearance of pain, and gives rise to a feeling of addiction. prolonged. On the one hand, drugs can also have a good impact in that they can be used in certain fields, such as providing health facilities and treatment, and can also be developed for the advancement of science. Law Number 35 of 2009 concerning Narcotics regulates narcotics crimes and criminal penalties and fines that must be borne by narcotics abusers or commonly referred to as narcotics perpetrators. Narcotics abuse itself has no age, from old to young people can not be separated from narcotics abuse.

Illegal sales of narcotics and use of narcotics that are not intended for use in Indonesia are at an alarming stage. It is estimated that around 1.5% of the Indonesian people are victims of drug abuse. In increasingly advanced technological developments, the reach of narcotics distribution has covered almost the entire territory of Indonesia. Even in areas that previously did not know about narcotics, now they are slowly starting to know about narcotics. Including minors, they are initially unfamiliar with what narcotics are, over time they will become dependent on these illegal drugs and what is worse will be the door for distribution to their peers who are still underage. To deceive the authorities, narcotics producers even use young children as couriers for illegal drugs in their transactions. Ignorance of what narcotics are and the inability to resist or even resist makes young children the main reasons for dealers recruiting minors to distribute narcotics widely and secretly. The process of turning children into couriers is very simple. In the beginning, inadequate economic conditions and education were used as tools to distribute narcotics. Apart from that, a number of children are not aware that they are caught in the chain of narcotics distribution.

Protection for children in conflict with the law is also contained in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. In Article 59, the Government and Regional Governments and related State institutions have obligations and responsibilities in providing special protection to children. The special protection referred to in this case is explained in the next point for children who are in conflict with the law and also children who are victims of abuse of narcotics, alcohol, psychotropic substances and other addictive substances.

Every child who is forced to face the law should be treated humanely. This is done in the best interests of the child. The state and the law must protect the rights of children who face legal cases. The aim of every punishment carried out against a child is intended to provide a sense of deterrence so that they will

not carry out the act in the future without depriving the child of their rights and potential. In Law Number 11 of 2012 concerning the juvenile justice system, every criminal act resolved at the level of investigation, prosecution and examination of children's cases requires diversion. This diversion has one aim, one of which is to prevent children from being deprived of their freedom. However, diversion can only be carried out if a child who is in conflict with the law is threatened with imprisonment for less than 7 years and is not a repeat crime. So the process of legal treatment received by children who are criminals in narcotics trafficking cases deserves special and more attention. As for children who are involved in drug dealing, it is not merely a feeling of wanting to make a profit from distributing drugs, but thoughts that arise because of the lure of narcotics dealers who promise tempting profits.

In foreign terms, criminal responsibility is known as *theorekenbaardheid* or criminal responsibility which leads to the punishment of people who commit a criminal act with the aim of determining whether the defendant or suspect is responsible for the crime committed or not. Criminal liability is essentially a process created by criminal law to respond to a violation on the basis of an "agreement to reject" certain actions.

Narcotics crimes are regulated in Chapter doubt that any violation of the law is a criminal act. The reason is, if narcotic substances are used for medical needs and for scientific purposes, then if there is illegal use of narcotics, it can be very dangerous for the human soul.

Narcotics abuse can have a direct impact on users physically and psychologically. Users may experience side effects such as confusion, fatigue, depression, memory impairment, sleep disturbances, and breathing problems. Narcotic abuse can also cause dependence and even overdose. Narcotics abuse can also have a negative impact on society in general. Narcotic use can increase crime and increasing social health costs. Narcotics abuse can also cause disruption to the family and community.

Children are a blessing and gift from God Almighty, with honor and dignity linked to them as full human beings. Children are superior seeds who hold talents and parts that will continue the country's hopes in the future, so it is an obligation for every citizen to provide protection and keep away from all bad deeds. Children have various kinds of meanings, these meanings are contained in the rules that operate in the country, including:

- a. Child Protection Law 35 of 2014 In Article 1 Paragraph 1 of this Law, what is meant by child is someone under 18 (eighteen) years of age, including children who are still in the womb. So that children who have not been born and are still in the womb according to this law receive legal protection. Apart from the definition of child, this law also defines abandoned children, disabled children, superior children, adopted children and foster children.
- b. Child Welfare Law Number 4 of 1979 In Article 1 paragraph (2) of this law a child is defined as someone who is not yet 21 (twenty one) years of age and has never been married

In general, a child is defined as a man or woman who is not yet an adult or has not yet entered adulthood. Then, what is defined as against the law is the action of a child who goes against or violates legal provisions that are valid and in force in Indonesia, therefore, in this situation it can be interpreted that a child who violates the law means a child who is not old enough according to the law and carries out the act. which contradicts or violates applicable and widely agreed legal provisions. In general conditions, a child who violates the law is associated with a child who is considered, convicted or confirmed to be guilty of violating the rules of the law, or a child who is suspected of having committed a violation is confirmed to have violated the law through the evidence or indicators found.

Based on the explanation above, the aim of the author is to find out how the rules for criminal acts committed by children are based on the child protection law and want to know how this law is applied to perpetrators of narcotics trafficking committed by children at the National Narcotics Agency.

RESEARCH METHODS

This type of research was carried out with a normative approach related to how the National

Narcotics Agency implements the law in protecting the rights of children as narcotics traffickers. The nature of this research was carried out descriptively-analytically. The data used in this research is secondary data obtained from theory, informative (formal) expert doctrine and from official texts. Secondary data consists of several parts, namely; a) primary legal materials, in the form of: 1) the 1945 Constitution; 2) Law no. 35 of 2009 concerning Narcotics; 3) No. 35 of 2014 concerning Child Protection, amendment to Law No. 23 of 2002. b) Secondary legal materials, namely; 1) journal; 2) legal dictionary; 3) English dictionary; 4) Indonesian dictionary; 5) books related to research; Data analysis is carried out normatively with interpretation and discussion of research results from legal norms, legal theory or legal doctrine related to the research. The data obtained in this research is secondary data in the form of information from the Police, the National Narcotics Agency (BNN), and data regarding government policies in tackling narcotics abuse, as well as the negative impact of narcotics on the social life of people in Indonesia.

RESULTS AND DISCUSSION

The problem of drug abuse is increasingly common, not only in countries where development is underway, but also in modern countries. As is known, drug trafficking is not only distributed in metropolitan cities, but has reached the rural stage. Apart from that, the perpetrators of drug trafficking abuse are not only adults, but are also dominated by children or the younger generation.

Drug users from a legal perspective, it means the perpetrator of a criminal act, this crime is regulated in Article 127 paragraph (1) of Law no. 35 of 2009 related to drugs. In general, a person must be responsible for his actions, but upon closer inspection, many assume that in reality, drug addicts and victims of drug abuse are victims of corporations or chains of drug distribution and trafficking, especially in recent times, have occurred. It is known that many children become addicts or drug abusers.

The application of punishment to children who abuse drugs often ends with imprisonment, the use of this decision does not solve children's problems, in practice it causes violations against children, whereas in Law no. 11 of 2012 regulations concerning the importance of the criminal justice system prioritize restorative justice in the justice of minors. Restorative justice is referred to as diversionary arrangements.

According to the 2022 Indonesia Drugs Report, there are around 99 children aged 12-18 years who are being rehabilitated in a number of rehabilitation centers in Indonesia. For children under 12 years old, no one was involved in narcotics cases in the same year.

Tabel 2.16. Jumlah Penyalahguna Narkoba di Balai Besar Rehabilitasi, Balai Rehabilitasi dan Loka Rehabilitasi BNN Berdasarkan Kelompok Usia

No.	Kelompok Usia	Jumlah Pasien						Jumlah
		Balai Besar Rehab Lido Jabar	Balai Rehab Baddoka Makassar Sulsel	Balai Rehab Tanah Merah Kaltim	Loka Rehab Batam Kepri	Loka Rehab Kalianda Lampung	Loka Rehab Deli Serdang	
1.	< 12 Tahun	0	0	0	0	0	0	0
2.	12-18 Tahun	18	27	29	2	9	14	99
3.	19-25 Tahun	194	97	62	38	61	59	511
4.	26-30 Tahun	138	53	61	43	42	26	363
5.	31-35 Tahun	130	33	36	34	42	15	290
6.	36-40 Tahun	77	25	18	20	33	28	201
7.	41-45 Tahun	38	15	10	12	11	0	86
8.	> 46 Tahun	37	6	6	7	8	0	64
Jumlah		632	256	222	156	206	142	1.614

Sumber: Deputi Bidang Rehabilitasi BNN, Maret 2022

The data above proves that many minors have been caught in narcotics crimes. Child victims begin with the lure of money to deliver narcotics to buyers and at the same time the child is fed with narcotics. What does this drug dealer do so that the child starts to become addicted to drugs and makes these children addicted? If a child is addicted, he will do anything so that his desire or addiction can be enjoyed by him, it is even possible that this child will become a dealer for a drug dealer.

Community Based Intervention (IBM) is one of the flagship programs of the National Drug Eradication Agency (BNN) to support efforts to prevent and eradicate drug abuse and illicit trafficking (P4GN) in Indonesia. In this program, BNN invites all stakeholders and sectors of society to participate in P4GN efforts down to the village level. The Indonesian Child Protection Committee (KPAI) revealed that 23% of residents of the Special Child Development Institute (LPKA) were perpetrators of theft, another 17.8% committed drug crimes, followed by 13.2% committed unethical crimes. KPAI also revealed the results of investigations into cases of drug abuse among children. In his presentation, Member of the KPAI Monitoring and Evaluation Committee, Dr. Jasra Putra, S.Fil.I., MPd., explained that 82.4% of children involved in drug cases acted as drug users, 47.1% as distributors and 31.4% as couriers. KPAI views that the role of the environment is very important, therefore coordination in the implementation of IMB is very necessary. This can have an impact on increasing public awareness of the dangers of drugs in their environment. KPAI's participation in this discussion is a form of synergy in handling teenage addiction to drugs.

An example of a case involving minors in illegal narcotics trafficking occurred some time ago in 2022 in Bangkalan, East Java. One of the couriers, who was still 17 years old, was lured by Rp. 2,000,000.00 as compensation for services as a courier. Based on this case, there is a Child Protection Law which can prove whether the minor is indeed an abuser or just a victim. Handling of narcotics crimes for children must comply with the provisions of Articles 112 and 127 of Law no. 35 of 2009 related to drugs. The law states that anyone who uses class I drugs can receive a prison sentence of up to four years, and those who use drugs not in accordance with the requirements undergo medical and social rehabilitation. Meanwhile, for children who are addicted to drugs, the criminal treatment is regulated in Article 71 of the Juvenile Justice System Law. However, there are differences in the length of the sentence given, where the maximum sentence that can be imposed on a child is no more than half (half) of the maximum sentence. fines for children and adults.

Arresting, detaining or imposing imprisonment sanctions on children can only be carried out in accordance with applicable law and can only be done as a last resort, including in taking action against narcotics abuse, in this case, he is in the position of a victim of a syndicate or link in the chain of distribution and sale of narcotics, so that Children need protection based on Law Number 11 of 2012 which requires diversion at the level of investigation, prosecution and case decision. The transition to the juvenile justice system is intended so that in resolving cases, children are kept as far as possible from the formal criminal justice process, namely to protect children who are in conflict with the law, that children are tried not to be included in the criminal process, transferred to the deliberation process in an effort to provide security for those involved. concerned.

When implemented in the juvenile justice system, many children in conflict with the law do not get the rights required by law and child agreements. In addition, the lack of socialization between police officers, the police and correctional institutions that enforce decisions, causes legal protection for children in conflict with the law to be ineffective. Legal protection for children in conflict with criminal justice is regulated in international and national regulations. In Indonesia, the government applies special laws to handle cases of children in conflict with the law through the enactment of Law no.11/2012 concerning the Juvenile Criminal Justice System.

Tabel 2.18. Jumlah Penyalahguna Narkoba di Balai Besar Rehabilitasi, Balai Rehabilitasi dan Loka Rehabilitasi BNN Berdasarkan Pekerjaan

No.	Pekerjaan	Jumlah Pasien						Jumlah
		Balai Besar Rehab Lido Jabar	Balai Rehab Baddoka Makassar Sulse	Balai Rehab Tanah Merah Kaltim	Loka Rehab Batam Kepri	Loka Rehab Kalianda Lampung	Loka Rehab Deli Serdang	
1.	Pelajar	15	8	12	2	8	7	52
2.	Mahasiswa	28	5	1	2	7	7	50
3.	Buruh	17	3	7	3	27	5	62
4.	PNS	10	7	8	6	10	4	45
5.	TNI/Polri	42	10	1	1	3	0	57
6.	Swasta	78	8	29	5	23	30	173
7.	Wiraswasta	183	86	48	29	56	4	406
8.	Tidak Bekerja	228	117	102	95	63	68	673
9.	Tidak Terdata	10	0	0	11	2	0	23
10.	Dokter	0	0	0	0	0	0	0
11.	Anggota DPRD	1	1	0	0	0	0	2
12.	Nelayan	0	2	0	1	0	6	9
13.	Pelaut	0	0	1	0	0	0	1
14.	Serabutan	0	3	1	0	0	0	4
15.	Honoror	7	6	1	1	0	3	18
16.	Petani	9	0	4	0	0	4	17
17.	Ibu Rumah Tangga	4	0	1	0	0	4	9
18.	Lain-lain	0	0	6	0	0	0	6
	Jumlah	632	256	222	156	206	142	1.614

Sumber: Deputi Bidang Rehabilitasi BNN, Maret 2022

Narcotics abusers do not care whether a person is an adult, working or not, still a student or not. Every line of life is very vulnerable to falling under the influence of drugs. According to data from the Indonesia Drugs Report for 2022, there are around 50 people who are undergoing a rehabilitation program because they were involved in narcotics cases. There are around 50 people from the student group who are undergoing rehabilitation. There are slightly more student groups, namely 52 people. The age range of students involved in the case is children, namely under 18 years.

BNN is aware that if the perpetrator of narcotics distribution is a child, BNN will continue to protect the child's rights in accordance with applicable laws. In the context of resolving criminal cases, BNN will try to ensure that a child who has problems with the law or more specifically as a dealer is resolved using restorative justice. By always thinking about the child's growth and development, taking into consideration the child's future in the future. The aim of giving special attention to children as perpetrators of narcotics trafficking is that the child has a guaranteed future and does not repeat his actions without taking away the child's rights. Diversion is mandatory for every criminal act at the level of investigation, prosecution and examination of children's cases. This diversion has one goal, one of which is to prevent children from being deprived of their freedom. However, diversion can only be carried out if the child is in conflict with the law and is threatened with imprisonment for less than 7 years and is not a repeat crime.

CONCLUSION

Every child must receive their full rights. Each of these rights is protected by applicable law. As is the case with Law Number 35 of 2014 concerning Child Protection. The law stipulates that if a minor is in trouble with the law, they must prioritize restorative justice. What is meant by restorative justice is choosing a solution through diversion. Diversion is a solution that involves many parties, such as families and agencies that care for children who are in trouble with the law, by finding the fairest possible solution

for child perpetrators. This diversion must be prioritized when considering decisions because it concerns the child's future. BNN as the narcotics control body in Indonesia, when it has to deal with cases of perpetrators of trafficking carried out by children, must prioritize the rights of the child. In the future, BNN will always respect the rights of children as narcotics dealers, where usually a child does not know that he is committing a crime.

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