



Law Enforcement Against Children Perpetrating Narcotics Crimes in Teluk Bintuni Regency

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Abstract

The child's immaturity in mental health and the way of thinking and behaving that is often hasty in making decisions is a disaster for him, so he falls into the trap of narcotics. When the child is suspected of committing a crime, the existing formal justice system ultimately places the child in the status of a prisoner, which of course has quite significant consequences for the child's growth and development. Based on Law Number 35 of 2014 concerning Child Protection, states that the arrest, detention, or imprisonment of a child is only carried out by applicable law and can only be carried out as a last resort. The criminalization system for children as perpetrators of drug abuse from the perspective of criminal policy cannot be separated from the formulation stage, which includes the definition of drug abuse by children, the background of the development stage by children as subjects of criminal law, and the development of theories of punishment and models for regulating types of criminal sanctions for children as perpetrators of drug abuse. These are also very important because if there are weaknesses in the formulation, it can hinder the enforcement of justice to protect children. Law enforcement against children who commit drug abuse crimes is seen as a diversion path implemented using the provisions of the SPPA Law, namely through penal mediation. Penal mediation is used in the early stages when there is a desire by the child to resolve his/her problems, accompanied by the relevant parties, namely parents, victims and their families, community leaders, and mediators in leading the forum.

Keywords: *Against Children; Law Enforcement; Narcotics*

Introduction

With the worsening economic conditions and influenced by low levels of education, children in their lives are no longer only obliged to play and study, but many children have done hard work, earning a living and becoming the backbone of the family. The growth and development of children should be the responsibility and still under the supervision of parents. Children cannot control their emotions well and act without thinking first, so to solve problems they always look for shortcuts (Pradhani, 2017).

The child's immaturity in mental health and the way of thinking and behaving that is often hasty in making decisions is a disaster for him, so he falls into the trap of narcotics. When the child is suspected of committing a crime, the existing formal justice system ultimately places the child in the status of a prisoner, which of course has quite significant consequences for the child's growth and development (Familda, 2021). The punishment process given to children through the formal criminal justice system by putting children in prison has not succeeded in making children deterred and become better people to support their growth and development process. Prison often makes children more professional in committing crimes (Soedjono, Dirdjosisworo, 1990).

Handling of drug abuse cases committed by children requires special attention and protection from the state. Article 28B paragraph (2) of Amendment V of the 1945 Constitution is the basis for children to be protected, which states: "Every child has the right to survival, growth, and development and has the right to protection from violence and discrimination (Pencegahan & Penanggulanganannya, 2011)."

Indicating that the state is mandated to provide and ensure protection for all children to live, grow, and develop according to their physical, psychological, and social needs optimally. Drug abuse is one of the crimes that can be committed by children. Article 1 point 1 of Law Number 35 of 2009 concerning Narcotics defines Narcotics as substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of feeling, reduce to eliminate pain, and can cause dependence, which is divided into groups as attached to this law (*Pengguna Narkotika Kalangan Remaja Meningkat*", 2020).

Meanwhile, the definition of a drug addict according to Article 1 point 13 of Law Number 35 of 2009 concerning Narcotics is a person who uses or abuses narcotics (without rights or against the law) and is in a state of dependence on narcotics both physically and psychologically. Protection for drug addicts and victims of drug abuse has been very clearly accommodated in Article 54 of Law Number 35 of 2009 concerning Narcotics, which states that drug addicts and victims of drug abuse are required to undergo medical rehabilitation and social rehabilitation (Andi Hamzah dan R. M. Surachman, 1994)." The medical rehabilitation and social rehabilitation referred to have been described in Article 1 point 16 of Law Number 35 of 2009 concerning Narcotics, which reads: "Medical rehabilitation is a process of integrated treatment activities to free addicts from drug dependence. Meanwhile, Article 1 point 17 of Law Number 35 of 2009 concerning Narcotics states: "Social rehabilitation is a process of integrated recovery activities, both physical and mental so that children who abuse narcotics receive special treatment (Dharmaningtyas, 2020).

Based on Law Number 35 of 2014 concerning Child Protection, states that "Arrest, detention, or criminal acts of imprisonment of children are only carried out by applicable law and can only be carried out as a last resort." and Article 81 of Law Number 11 of 2012 concerning the Child Criminal Justice System, which states "imprisonment of children is only used as a last resort" (Moh. Taufik Makaro, Suhasril, Moh Zakky A.S., 2005). The provisions of Law Number 35 of 2014 concerning Child Protection and Law Number 11 of 2012 concerning the Child Criminal Justice System indicate that regarding the protection of the rights of children in conflict with the law, providing a prison sentence is a last resort, not the first resort in criminalizing children.

The criminal punishment system for children as perpetrators of drug abuse from the perspective of criminal policy cannot be separated from the formulation stage, which includes the definition of drug abuse by children, the background of the development stage by children as subjects of criminal law, and the development of theories of punishment and models for regulating the types of criminal sanctions for children as perpetrators of drug abuse crimes, which are also very important because if there are weaknesses in the formulation, it can hinder the enforcement of justice to protect children (Siregar et al., 2022).

By looking at some of the above, then in more depth in the criminal proceedings in the case of child narcotics, that the criminal act without rights or against the law of offering, for sale, selling, buying, receiving, acting as an intermediary in buying and selling, exchanging, or handing over Class I Narcotics and or without rights or against the law planting, maintaining, possessing, storing, controlling, or providing Class I Narcotics in the form of Marijuana plants, as referred to in Article 114 paragraph (1) and or Article 111 paragraph (1) of Law Number 35 of 2009 concerning Narcotics which occurred on Thursday, March 21, 2024, at around 15.30 WIT, at SP 4 Jalur 2 Kampung Banjar Ausoy, Manimeri District, Teluk Bintuni Regency. or within the jurisdiction of the Manokwari District Court. Therefore, the basis for criminalization includes 1. Police Report Number: LP / A / 04 / III / 2024 / SPKT / Sat Resnarkoba / Polres Teluk Bintuni / West Papua, dated March 22, 2024, regarding the alleged Crime of Narcotics Class, 1 Type of marijuana plant; 2. Investigation Order Letter Number: SP. Gas / 04 / III / 2024 / Resnarkoba, dated March 22, 2024; 3. Investigation Task Order Letter Number: SP.Sidik / 04 / III / 2024 / Resnarkoba, dated March 22, 2024; and 4. A notification letter of commencement of investigation Number: B / 04 / III / 2024 / Resnarkoba, dated March 25, 2024.

Research Method

The approach method used is a sociological-legal approach. The juridical approach (law is seen as a norm or *das sollen*, because in discussing the problems of this study using legal materials (both written law and unwritten law or both primary legal materials and secondary legal materials) (Wignjosoebroto, 2002). The sociological approach (law as a social, cultural reality, or *das sein*), is because in this study primary data obtained from the object of research is used. So, the sociological juridical approach in this study means that analyzing the problem is done by combining legal data (which is secondary data) with primary data obtained at the object of research. The sociological juridical approach is used with the intention or aim of researching and analyzing the law enforcement process against child perpetrators of drug abuse. Primary data is obtained from several legal facts, including:

First, a summons was made to brother ROLAND FRANCISCO MANSUMBAUW, alias ROLAND Identity Number: 9206011307010005, Citizenship: Indonesia, Gender: Male, Place/date of birth: Abepura, July 13, 2023, Occupation: POLRI, Religion: Protestant Christian, Address: Aspol Bintuni, Teluk Bintuni Regency. As a witness in the case of the Criminal Act of Abuse of Class 1 Narcotics, type of marijuana, as referred to in Article 114 paragraph (1) and/or Article 111 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, the person concerned was examined on Saturday, March 23, 2024 (two thousand twenty-four), at 08.30 WIT.

Second, a summons was made to ETON O. UGUDE, alias ECON Identity Number: 92710151111980002, Citizenship: Indonesia, Gender: Male, Place/date of birth: Sorong, November 11, 1998, Occupation: POLRI, Religion: Christian, Address: Jl. S. Bebari RT/RRW 002/009, Matalamagi Village, North Sorong District, Sorong City/AAspol Bintuni Teluk Bintuni Regency, As a witness in the case of Criminal Acts of Abuse of Class 1 Narcotics Type marijuana, as referred to in Article 114 paragraph (1) and/or Article 111 paragraph (1) of Law Number 35 of 2009 concerning Narcotics. The person concerned was examined on Saturday, March 23, 2024 (two thousand twenty-four), at 10.30 WIT.

Third, a summons was made to brother ROBERD RUMADAS, alias ROBI Identity Number: 9202122408640002. Citizenship: Indonesia, Gender: Male, Place/date of birth: Manokwari, August 24, 1964, Occupation: Private, Religion: Protestant Christian, Address: Jl. Trikora Kalidingin RT/RRW 002/007, Wosi Village, West Manokwari District, Manokwari City, As a witness in the case of the Criminal Act of Abuse of Class 1 Narcotics, type of marijuana, as referred to in Article 114 paragraph (1) and/or Article 111 paragraph (1) of Law Number 35 of 2009 concerning Narcotics. The person concerned was examined on Thursday, March 28, 2024 (two thousand twenty-four), at 14.48 WIT.

Fourth, through a letter of application for the appointment of an Expert Witness Number: R / 10 / III / 2024 / Res Narkoba, dated March 25, 2024, and brother apt. ALARIS DARASITO DAMANIK, S.Farm as an Expert Witness in the Case of the Criminal Act of Abuse of Class 1 Narcotics, type of marijuana plant, as referred to in Article 114 paragraph (1) and or Article 111 paragraph (1) of Law Number 35 of 2009 concerning Narcotics. The person concerned was examined on Wednesday, April 3, 2024, at around 10.30 WIT.

Fifth, without a summons, APNER RUMADAS alias APNER was examined with NIK Number: 9202121104060004, Citizenship: Indonesia, Gender: Male, Place/date of birth: Manokwari, April 11, 2006; Occupation: None. Religion: Protestant Christian, Address: Jl. Trikora Kali Dingin RT/RRW 002/007, Wosi Village, West Manokwari District, Manokwari Regency, West Papua Province/CCentral Market Complex Mangi-mmangi, East Bintuni Village, Bintuni District, Teluk Bintuni Regency, as a Suspect in a Criminal Case of Narcotics Abuse Class 1 type of marijuana plant, as referred to in Article 111 paragraph (1) of Law Number 35 of 2009 concerning Narcotics. The person concerned was examined on Thursday, March 28, 2024 (two thousand twenty-four), at 13.16 WIT. Secondary data consists of legal materials that have binding force in the form of laws and regulations, including the Criminal Code (KUHP); Law Number 8 of 1981 concerning the Criminal Procedure Code; Law Number 35 of 2009 concerning Narcotics; Law Number 11 of 2012 concerning the Juvenile Criminal Justice System; and Law Number 23 of 2002 concerning Child Protection.

Result and Discussion

Criminal Responsibility of Children as Perpetrators of Narcotics Abuse Crimes

Law of the Republic of Indonesia Number 11 of 2012 Concerning the Juvenile Criminal Justice System provides new roles and obligations to the police in addition to the authority to conduct investigations and inquiries in handling criminal acts committed by children. This authority is to carry out a diversion in criminal acts committed by children and to ensure that cases do not continue to the level of prosecution and examination of cases in court. In reality, there are cases of criminal acts committed by children that are processed at the level of investigation, prosecution by the prosecutor's office, and the examination process in court (Irianto, 2022).

In the legislation, namely Article 1 number 26 of the Criminal Procedure Code, a witness is a person who can provide information for investigation, prosecution, and trial of a criminal case that he/she has heard, seen, or experienced himself/herself. If a witness provides information based on his/her own opinion or assumption, then the information cannot be accepted as a consideration of the judge, or, in other words, the information is not included in the evidence (Soedjono, 1985).

Article 185 paragraph (6) of the Criminal Procedure Code states that in assessing the truth of witness statements, judges must seriously pay attention to the following (Kusno Adi, 2009):

- a. Consistency between the statements of one witness and another;
- b. Consistency of the witness's statement with other evidence. The witness's reasons for giving certain statements;
- c. Lifestyle, morality, and other things that can generally affect whether the statement is credible or not.

In practice, witness statements have evidentiary value; basically, the witness statement must fulfill the following requirements:

- a. Formal requirements: witness statements must be given under oath or promise according to their respective religions that they will give the truth and nothing but the truth. If a witness's statement without an oath, even if it is by each other, is not evidence. However, if the statement is by the witness or the oath, the statement can be used as other valid evidence;
- b. Material requirements, by Article 1 number 27 Jo. Article 185 paragraph (1) of the Criminal Procedure Code, stipulates that: Article 1 number 27 of the Criminal Procedure Code states that witness statements as evidence are what the witness states in court regarding a criminal event that he heard, saw himself, and experienced himself by stating the reasons and knowledge of it.

By looking at one of the witnesses, ROLAND FRANCISCO MANSUMBAUW Alias, Identity number: 9206011307010005, Citizenship: Indonesia, Gender: Male, Place/date of birth: Abepura, July 13, 2023; occupation: POLRI; religion: Protestant Christian; address: Aspol Bintuni, Teluk Bintuni Regency. The witness explained that the evidence obtained by the witness and other fellow witnesses belonged to APNER RUMADAS, including:

- a.3 (three) clear plastic clip packages suspected of containing Class I Narcotics in the form of marijuana plants;
 - b.1 (one) small white plastic bag;
 - c.1 (one) unit of VIVO 1929 brand cellphone in black combined with green;
 - d. The witness explained that based on the results of weighing the evidence of marijuana narcotics belonging to APNER RUMADAS, which at that time was weighed at the Bintuni pawnshop office witnessed by APNER RUMADAS himself as well as by other witnesses and friends with a net weight including 1 (one) clear plastic clip package suspected of containing Class I Narcotics in the form of marijuana plants with a net weight of 7.49 (seven point forty-nine) salts coded (A1);
 - e.1 (one) clear plastic clip package suspected of containing Class I Narcotics in the form of marijuana plants with a net weight of 6.38 (six point thirty-eight) grams of salt coded (A 2);
 - f.1 (one) clear plastic clip package suspected of containing Class I Narcotics in the form of marijuana plants with a net weight of 7.93 (seven point ninety-three) grams of salt coded (A 3);
- The witness stated that Mr. APNER RUMADAS did not have any permission from the authorities to control or sell narcotics in the form of marijuana.
 - The witness stated that Mr. APNER RUMADAS only cried and apologized for his mistake.
 - The witness stated that it was true that the evidence pointed out by the examiner to the witness above was evidence that was seized or confiscated by us belonging to Mr. APNER RUMADAS.

The witness stated that APNER RUMADAS' actions were against the law.

Law Enforcement Against Child Narcotics Offenders Through Non-Penalization Mediation Efforts

Based on the problems and realities above, a means is needed to resolve the problems of children who are dealing with the law and must pay attention to protecting the future of children, namely using non-penal mediation. Non-penal mediation or efforts outside the law/courts focus more on a preventive nature, namely prevention, control, and deterrence before a crime occurs. The target of this non-penal mediation effort is to eradicate all factors that cause criminal acts to occur. All of these factors, among others, are centered on a problem or social condition; both those that are present directly or indirectly can cause or develop criminal acts (Arsalan & Putri, 2020).

Therefore, viewed from a broad criminal policy perspective, this mediation effort holds the key and control of all criminal policy efforts. Non-penal mediation can be said to be a strategic effort, namely if an effort is made to make the entire community a healthy and conducive social environment both materially and immaterially from all aspects of criminology. Non-penal mediation efforts are also an effort to prevent the possibility of criminal acts being committed before the crime occurs. This effort is needed because seen from the age of the perpetrator of the crime, it is classified as a child, but considering the perpetrator of the crime that makes the child a perpetrator of the crime, it is a burden for the child as a perpetrator of the crime. In this effort, the role of guidance and supervision is a central figure, which can be carried out by the police or related parties by conducting socialization to the community and the role of the child's parents, and of course instilling standard education in the community, especially children, regarding the negative effects and disadvantages of committing a crime (Prasetyo, 2020).

Conclusion

Law enforcement against children who commit drug abuse crimes is seen as a diversion path implemented using the provisions of the SPPA Law, namely using penal mediation. Penal mediation is used in the early stages when there is a desire by the child to resolve their problems, accompanied by the relevant parties, namely parents, victims and their families, community leaders, and mediators in leading the forum. The problem in implementing the restorative justice approach in the juvenile criminal justice system lies mainly in the settlement mechanism offered, which in this case is different from the settlement in the criminal justice system in general, so it is still rarely used and difficult to accept.

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