

Implementation of Child Offenders of Narcotics and Psychotropic Crimes at the Madiun District Court

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Abstract

This study discusses the implementation of child perpetrators of narcotics and psychotropic crimes at the Madiun District Court. The choice of topic and background in this study was based on the fact that narcotics abuse has long been a serious problem in various countries, especially in Indonesia. An example of the adverse effects that have occurred in Indonesia, especially for the wider community, is the adverse impact of friendships which often have a negative influence on children. nation. One example is drug abuse. With its legal basis, namely Law number 5 of 1997 concerning psychotropics and Law number 22 of 1997 concerning Narcotics which was later updated to become Law number 35 of 2009 concerning narcotics, Then for criminal sanctions against children who commit basic crimes the law is Law Number 23 of 2002. In the Implementation of Child Offenders of Narcotics and Psychotropic Crimes at the Madiun District Court. The method used is empirical juridical research which is legal research involving various supports from the community or outside parties in accordance with existing law, involving the community or the surrounding environment based on social science. The analysis used is qualitative analysis using interviews, as well as literature studies. Sourced from this method, it can be described the implementation of child perpetrators of narcotics and psychotropic crimes at the Madiun District Court.

Keywords : *Narcotics and psychotropic; children of criminal narcotics; juvenile delinquency*

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I. Introduction.

Narcotics abuse has long been a serious problem in various countries, especially in Indonesia. Along with the development of the times and also increasingly advanced social changes can affect society, especially in Indonesia. This of course brings a lot of impact on society both in the form of good and bad impacts. Technology that is growing rapidly can also make it easier for all access to get information in just a matter of seconds. An example of the bad impact

that has occurred in Indonesia, especially for the wider community, is the bad impact of friendship which often has a negative influence on the nation's children. One example is drug abuse

Narcotics and drugs or dangerous materials or abbreviated as narcotics are also known as drugs, namely narcotics, psychotropics and addictive substances. Drug abuse itself is a threat to the nation that must get more attention from the government. Drug abuse or the extension of narcotics and drugs or hazardous materials can damage the mentality of the nation's children. Narcotics and psychotropics are drugs or substances that actually have benefits in the fields of medicine, health services, and scientific development, but on the other hand, drugs can cause effects that cause dependence which are very detrimental if used without control, and under strict supervision and carefully. The substances contained in narcotics were originally intended for medicinal purposes, but with the development of science and technology and irresponsible persons, the types of narcotics (narcotics, addictive substances and psychotropics) are made so much and they are not used according to their benefits. i.e. its function can also be misused. In this case the abuse of narcotics and psychotropics, both Law number 35 of 2009 concerning narcotics and Law number 5 of 1997 concerning psychotropics only apply sanctions to perpetrators of criminal acts based on the class or type of narcotics and psychotropics that are abused. But on the other hand, for some people, imposing punishment on children is considered unwise behavior. However, there are some parties who think that it is still important to punish children, so that the bad attitude of children does not continue or even become permanent until the child is an adult. The efforts made in this regard are that the examination of child cases is carried out in private in accordance with the provisions of Article 42 paragraph (3) of Law Number 3 of 1997 concerning Juvenile Courts (hereinafter referred to as the Juvenile Court Law) which states that the process of investigating children must kept secret. Therefore, all actions of investigators in the context of investigating children must be kept confidential, without exception. In addition, there is no regulation regarding the age limit for perpetrators of crimes, especially perpetrators of crimes that are not yet mature. However, in Article 4 of law number 3 of 1997 concerning Juvenile Courts, it has regulated the age limit for submitting children to court. Based on the description of the background above, this thesis or research was written by raising this

matter as material for legal writing with the title "IMPLEMENTATION OF CHILDREN OF NARCOTIC CRIMINAL ACTIONS AND PSYCHOTROPICS IN MADIUN NEGRI COURT"

II. Research Method

Narcotics and drugs or dangerous materials or abbreviated as narcotics are also known as drugs, namely narcotics, psychotropics and addictive substances. Drug abuse itself is a threat to the nation that must get more attention from the government. Drug abuse or the extension of narcotics and drugs or hazardous materials can damage the mentality of the nation's children. Narcotics and psychotropics are drugs or substances that actually have benefits in the fields of medicine, health services, and scientific development, but on the other hand, drugs can cause effects that cause dependence which are very detrimental if used without control, and under strict supervision and carefully. The substances contained in narcotics were originally intended for medicinal purposes, but with the development of science and technology and irresponsible persons, the types of narcotics (narcotics, addictive substances and psychotropics) are made so much and they are not used according to their benefits. i.e. its function can also be misused. In this case the abuse of narcotics and psychotropics, both Law number 35 of 2009 concerning narcotics and Law number 5 of 1997 concerning psychotropics only apply sanctions to perpetrators of criminal acts based on the class or type of narcotics and psychotropics that are abused. But on the other hand, for some people, imposing punishment on children is considered unwise behavior. However, there are some parties who think that it is still important to punish children, so that the bad attitude of children does not continue or even become permanent until the child is an adult. The efforts made in this regard are that the examination of child cases is carried out in private in accordance with the provisions of Article 42 paragraph (3) of Law Number 3 of 1997 concerning Juvenile Courts (hereinafter referred to as the Juvenile Court Law) which states that the process of investigating children must kept secret. Therefore, all actions of investigators in the context of investigating children must be kept confidential, without exception. In addition, there is no regulation regarding the age limit for perpetrators of crimes, especially perpetrators of crimes that are not yet mature. However, in Article 4 of law number 3 of 1997 concerning Juvenile Courts, it has regulated the age limit for submitting children to court. Based on the description of the background above, this thesis or research was written by raising this

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III. Research Result

A. Application of Law or Criminal Sanctions Against Children Offenders of Narcotics and Psychotropics Crimes at the Madiun District Court

The indictment used to impose sanctions on the child defendant is the first indictment as an alternative indictment. The perpetrator's child has been indicted by the Public Prosecutor with the following alternative forms of indictment:

- FIRST: the child's actions as regulated 114 Paragraph (2) of the Law of the Republic of Indonesia No. 35 of 2009 concerning Narkotika Jo article

OR

- SECOND: the child's actions as stipulated in Article 112 paragraph (2) RI Law No. 35 of 2009 concerning Narcotics Jo article 55 paragraph 1 of the Criminal Code Jo article 64 Paragraph (1) of the Criminal Code

According to the Analysis of the constituent child defendants having committed serious crimes as stated in Article 79 paragraph (1) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. If referring to Article 69 paragraphs (1) and (2):

- (1) Children can only be sentenced or subject to action based on the provisions of this Law;
- (2) Children who are not yet 14 (fourteen) years old may only be subject to detention.

The following are the criminal charges filed by the Public Prosecutor:

1. Declaring the child of DENZEL DWI PRASETYO BIN IMAM RAMELAN proven guilty of committing a crime "Those who commit, and those who participate in committing an act, if between several acts, even though each one is a crime or a violation, there is a relationship in such a way that it must be seen as one continual acts without rights or against the law of owning, storing, controlling, providing non-plant narcotics as referred to in paragraph (1) weighing more than 5 (five) grams" as stipulated and punishable by crime Article 112 paragraph (2) of the Law of the Republic of Indonesia No. 35 of 2009 concerning Narcotics Jo. Article 55 paragraph (1) of the Criminal Code in conjunction with article 64 paragraph (1) of the Criminal Code, in accordance with what we charge in the first indictment;

Punish the child DENZEL DWI PRASETYO BIN IMAM RAMELAN, therefore, with imprisonment for 6 (six) years minus the entire detention period that has been served by the child in this case, with an order for the child to remain detained and a fine of Rp. 800,000,000.00 (Eight Hundred Million Rupiah) was replaced with work training for 3 (three) months.

The compilers agree and are of the opinion that the application of the article against child defendants is in the demands of the public prosecutor in cases of narcotics abuse committed by children in decision number: 1/Pid.Sus.Anak/2022/PN.Mad. this has fulfilled all the elements of intentional or intentional actions of the child defendant. In addition, there is no diversion in this decision because the attorneys did not raise any objections.

The judge, taking into account legal facts, considers that what is meant by Everyone in criminal law is anyone, meaning that everyone can act as a legal subject and is capable of being responsible because they have subjective rights and legal authority. Legal Authority is the ability to support rights and obligations; Considering, that in this case the child who is the child is DENZEL DWI PRASETYO BIN IMAM RAMELAN (not someone else from him) which was revealed in court the child is physically and mentally healthy, which means that the child is capable of being responsible and accountable for his actions before law and there are no reasons for forgiveness or justification reasons that can eliminate the nature of criminal responsibility; Considering, that in Article 7 of the Republic of Indonesia Law No.35 of 2009 concerning Narcotics it is explained that Narcotics can only be used for the benefit of health services and /

or the development of science and technology and Article 8 paragraph (1) Narcotics Group I are prohibited from being used for service purposes health, and paragraph (2) In limited quantities, Narcotics Category can be used for the benefit of developing science and technology and for diagnostic reagents, as well as laboratory reagents after obtaining approval from the Minister on the recommendation of the Head of the Drug and Food Control Agency; Considering, that based on the facts revealed at the trial, namely in the form of statements from witnesses, statements from children and other evidence at trial, it was found that the children had been arrested by members of the Police from Pores Madiun City for possessing methamphetamine-type narcotics without permission, and from the testimony of children It is true that the child does not have a permit to own or store the methamphetamine-type narcotics and the child is not a patient who needs methamphetamine-type narcotics for treatment. According to the analysis of the compiler and the existing laws and regulations, the substance and content of the child defendant's decision number: 1/Pid.Sus.Anak/2022/PN.Mad, is in accordance with the rules and structure of decisions in general. Regarding the imposition of criminal sanctions against child defendants, namely for 4 (four) years, in this case it is deemed appropriate and appropriate to be imposed. The criminal act of conspiracy and abuse of narcotics committed by the child has fulfilled the elements contained in Article 112 paragraph (2) of RI Law No.35 of 2009 concerning Narcotics

A. Application of Law or Criminal Sanctions Against Children Offenders of Narcotics and Psychotropics Crimes at the Madiun District Court

Based on Law Number 11 of 2012 it has 4 stages, namely: Investigation stage, public prosecutor prosecution stage, trial stage, coaching stage at LPKA (Child Special Development Institution) or institution or place where the child is serving his sentence. This is also confirmed in Article 3 of the Regulation of the Minister of Law and Human Rights Number 18 of 2015 concerning the Organization and Work Procedures of Special Child Development Institutions, LPKA has the task of carrying out the development of correctional students. In Decision 1/Pid.Sus.Anak/2022/PN.Mad it has been explained in detail regarding the identity of the accused, results of the investigation, primary and subsidiary charges, charges, trial facts explaining the evidence, statements of witnesses presented during the trial, and the testimony of the accused, the basis for the judge's considerations, decisions, case analysis, and conclusions.

Regulations against narcotics abuse for children according to legal provisions in Indonesia have regulated criminal provisions up to the maximum penalty for that, it can be seen and concluded that Decision 1/Pid.Sus.Anak/2022/PN.Mad is in accordance with statutory regulations, namely the Law -Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, namely Imposing Action on the child DENZEL DWI PRASETYO BIN IMAM RAMELAN with a prison sentence of 4 (four) years at LPKA Blitar and undergoing Compulsory Work Training for 3 (three) months at the Ponorogo District Social Service. In order to maximize protection for children in Indonesia, especially legal protection, Law Number 23 of 2002 concerning Child Protection was issued. As developments progressed, this Child Protection Law was later amended through Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (hereinafter abbreviated as the Child Protection Law).” In 2016, in order to increase the problems of violence, especially sexual violence against children, a Regulation in Lieu of Law (Perppu) regarding Child Protection was issued. The Perppu was subsequently enacted into law through Law Number 17 of 2016 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection. Legal Protection for Children of Narcotics Abuse is regulated in Article 23 of the Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection:

(1) The State, Government and Regional Government guarantee the protection, maintenance and welfare of the Child by taking into account the rights and obligations of the Parents, Guardians or other persons who are legally responsible for the Child.

(2) (2) The State, Government and Regional Government supervise the implementation of Child Protection

Article 25

(1) The obligations and responsibilities of the community towards child protection are carried out through community role activities in the implementation of child protection

(2) The obligations and responsibilities of the community as referred to in paragraph (1) are carried out by involving community organizations, academics and child observers.

Article 59

(1) The Government, Regional Government and other state institutions have the obligation and responsibility to provide Special Protection for Children.

(2) Special Protection for Children as referred to in paragraph (1) is given to:

- a. Child in an emergency situation;
- b. Children in conflict with the law
- c. Children from minority and isolated groups
- d. Children who are economically and/or sexually exploited;
- e. Children who are victims of abuse of narcotics, alcohol, psychotropics and other addictive substances;
- f. Children who are victims of pornography;
- g. Children with HIV/AIDS;
- h. Child victims of kidnapping, selling, and/or trading;
- i. Child victims of physical and/or psychological violence;
- j. Child victims of sexual crimes;
- k. Child victims of terrorism networks;
- l. Children with Disabilities;

- m. Child victims of abuse and neglect;
- n. Children with deviant social behavior; and

IV. Conclusion

Judge's considerations in imposing crimes against children who commit crimes of narcotics, namely juridical considerations, as in Article 114 paragraph (1) of Law Number 35 of 2009 concerning Narcotics and referring to Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, considerations Non-juridical, among other things, that must be considered are the best interests for the child's growth and development; Referring to Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, the categories of crimes that can be imposed on defendants, in this case children, as referred to in Article 7 paragraph (1), namely:

1. Principal crimes for children consist of:
 - 1) Warning sentence;
 - 2) Criminal terms;
 - a. Criminalization outside the institution;
 - b. Community service or;
 - c. Supervision;
 - d. Work training;
 - e. Development in institutions, and;
 - f. Jail.
2. Additional punishment consists of:
 - 1) Deprivation of profits derived from criminal acts; or

- 2) Fulfillment of customary obligations.
3. If in material law a cumulative penalty is imposed in the form of imprisonment and a fine, the fine shall be replaced by job training;
4. Criminals imposed on children are prohibited from violating the dignity of the child;
5. Further provisions regarding the form and procedure for the execution of a crime as referred to in paragraph (1), paragraph (2), paragraph (3) shall be regulated in a Government Regulation.

Furthermore, the judicial process against children as perpetrators of criminal acts of narcotics abuse according to legal provisions in Indonesia has regulated criminal provisions up to the maximum threat of punishment. So that it can be seen and concluded that the Decision 1/Pid.Sus.Anak/2022/PN.Mad is in accordance with statutory regulations, namely Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The form of legal protection for children who abuse narcotics internationally is through the fundamental rights and freedoms of children and the convention on children's rights, while in Indonesia it can be seen through Law Number 17 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection. and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. In these various legal regulations, it can be seen that the state pays attention to focusing on child protection cases in Indonesia. This attention focuses on protecting & upholding children's rights, including children who abuse narcotics. In the specific Protection Act for children who are victims of abuse of narcotics, alcohol, psychotropics, and other addictive substances (drugs).

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