



## LEGAL ANALYSIS OF THE CRIMINAL JUSTICE SYSTEM IN HANDLING DRUG ABUSE CRIMES COMMITTED BY CHILDREN IN SURABAYA

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**Abstract:** *Narcotics abuse by children is a behavioral deviation or unlawful act. The increase in narcotics abuse among the younger generation is very dangerous for the nation's future generations who do not yet have legal protection against perpetrators and victims of narcotics abuse who are still minors. The aim of this research is to determine the form of criminal responsibility for children who commit criminal acts of narcotics abuse and how to analyze the criminal justice system in handling cases of criminal acts of narcotics abuse committed by children based on decision no. 9/PID.SUS-Anak/2021/PT SBY. The method used is the normative legal method which places the law as a building of a system of norms, the norm system refers to the principles, norms, rules of statutory regulations, court decisions, agreements and doctrines, often conceptualized as what is written in the regulations. Legislation or law is conceptualized as a rule or norm which is a benchmark for human behavior. Based on the results of the analysis, it is known that the criminal responsibility of children who use narcotics has been regulated in Law Number 35 of 2009 concerning Narcotics. Based on the a quo regulations, the child will be rehabilitated. In this case, rehabilitation is divided into 2 types, namely medical rehabilitation and social rehabilitation. Rehabilitation efforts for children who use narcotics should be supported by all groups. Bearing in mind that rehabilitation efforts are more oriented towards the goal of recovering from undesirable conditions and can also guarantee children's rights. Children who abuse narcotics can be subject to sanctions in the form of actions and criminal penalties. Children as victims of narcotics abuse also receive protection from the state and government institutions.*

**Keywords:** *children, narcotics abuse, criminal acts*

## INTRODUCTION

Drug abuse by someone can be interpreted as using narcotics improperly, in this case of course outside the supervision of a doctor. The occurrence of abuse in society certainly greatly affects society itself. The influence can be in the form of an influence on peace in society, an influence on the emergence of crime in society and so on. Drug abuse no longer looks at age, starting from children, teenagers, adults to even the elderly are not free from the trap of drug abuse. The problem of drug trafficking is no less worrying because it does not only occur in big cities but also spreads to remote areas. Drug abuse by children is currently a concern for many people and continues to be discussed and published. In fact, the problem of drug abuse is a concern for various groups. Almost all elements remind the Indonesian people to always guard and pay attention to their children's relationships with the rampant circulation of narcotics that can damage the child's future. The problem of drug abuse in Indonesia is currently felt in a worrying state. As an archipelagic country that has a strategic location, both in terms of economy, social, and politics in the international world, Indonesia has participated in overcoming the crime of drug abuse, namely by enacting Law Number 35 of 2009 concerning Narcotics.

The perpetrators of drug abuse crimes are increasing, both dealers and users/users (consumers) of narcotics. The most concerning thing is that children who use/use drugs even become dealers, but what needs to be considered and observed is that children who become perpetrators of

drug abuse must have external driving factors that are the main perpetrators. The perpetrators behind children as drug abusers are adults by way of children being given, persuaded or deceived, promised something, even threatened. It is very sad to see this incident as a result of the smallest environmental scope such as the family environment, which should provide education or knowledge about how dangerous narcotics are if misused and what legal consequences will occur, but instead become the main actors in this phenomenon of drug abuse.

Minors as drug abusers need more attention because they are the next generation. The very bad impact of drugs not only affects the physical, but also the psychology of the child. Some psychological impacts caused by drug abuse include careless work, tension, anxiety, loss of self-confidence, agitation, difficulty concentrating, tend to hurt themselves, to feelings of insecurity and even suicide. Other impacts are on the social environment, including mental disorders, anti-social and immoral, becoming a burden on the family, disrupted education and a bleak future. The lack of education and counseling about narcotics that is not evenly distributed causes many minors to fall into and use narcotics without their parents' knowledge.

Drug abuse by minors is difficult to control because too many children are already using drugs today. Children who should be the next generation of the nation in the future. Children need special guidance because in general children have a very great curiosity, so that something new can lead to goodness or vice versa. The age of children who use drugs varies greatly, even now many elementary school

children have smoked cigarettes so that they have felt the addictive substances in the cigarettes. Addictive substances are "substances that cause addictive effects" contained in tobacco. At first, children smoke cigarettes, and this habit is what causes children's relationships to start to deviate from what they should be, especially since the child joins an adult environment that uses narcotics, which initially only tries then becomes dependent

Therefore, we realize that the problem of drug abuse or narcotics carried out by minors is a very complicated or complex problem, therefore efforts and support from all parties are needed in order to achieve the expected goals, because the implementation of the law is very dependent on the participation of all parties, both the family environment, the community environment, the government, law enforcement officers together to create an expected goal, because such things are quite difficult to eliminate, let alone wait for them to disappear by themselves, there are already laws that regulate narcotics and explain what sanctions will be received if we as legal subjects violate the provisions of the law, starting from light sanctions to heavy sanctions

### **MAIN PROBLEM**

Based on the problem mentioned above, the author then formulates main problem discussed in this research, that is:

1. How is the Legal Analysis Of The Criminal Justice System In Handling Drug Abuse Crimes Committed By Children In Surabaya?

### **METHOD OF RESEARCH**

The type of research in this study is normative juridical, which means the approach is carried out by examining the approach of theories, concepts, reviewing the laws and regulations related to this research or the approach to legislation. Normative juridical research is legal research that places law as a building of a normative system. The normative system in question is regarding the principles, norms, rules of laws and regulations, agreements and doctrines (teachings). This normative research is research on legal systematics, namely research whose main purpose is to identify the concepts or bases in law. The research specification used is normative juridical, namely analyzing the relationship between applicable laws and regulations with legal theories and the practice of implementing positive law concerning the problems discussed. This research will analyze legal problems, facts, and other legal phenomena related to the legal approach, then obtain a comprehensive picture of the problems to be studied. This descriptive analysis research will only describe the condition of the object or problem and is not intended to draw or draw general conclusions regarding the punishment of perpetrators of drug abuse in minors.

The data collection method in this study is library research or document/library study. Furthermore, the data is then analyzed qualitatively, namely by analyzing the materials that have been collected.

1. Literature study, namely the study of written information regarding the law that comes from various sources and is

widely published and is needed in normative legal research. Literature study is carried out to obtain secondary data, namely by conducting a series of documentation study activities by reading and citing literature, reviewing laws and regulations related to the problems discussed.

2. Document study, namely the study of written information regarding the law that is not published generally but may be known by certain parties.

Data analysis is an effort or way to process data into information so that the characteristics of the data can be understood and useful for solving problems, especially problems related to research. This study uses a qualitative analysis method, namely by tracing laws and regulations and library materials which are then written descriptively.

## **RESEARCH RESULT**

### **Legal Analysis Of The Criminal Justice System In Handling Drug Abuse Crimes Committed By Children In Surabaya**

In Indonesia, regulations regarding narcotics are regulated in Law Number 35 of 2009 concerning Narcotics. There are no specific regulations regarding children as perpetrators of narcotics abuse. In this law, there is also an alternative in resolving cases of children who are perpetrators of narcotics abuse, namely diversion, so as not to involve children in a long and quite complicated judicial process for children who are still minors. Which is an amendment to Law Number 22 of 1997, this regulation aims to increase activities to prevent and eradicate

narcotics abuse and illicit trafficking which are very detrimental and endanger the lives of society, the nation and the state. Sanctions against violators range from criminal sanctions in prison, life imprisonment, to the death penalty. Drug addicts who have felt or are dependent on drugs must immediately undergo a rehabilitation process that has been provided by the government. According to Law No. Article 55 paragraph 1 of Law No. 35 of 2009 states that "parents or guardians of underage drug addicts are required 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". Addicts who undergo rehabilitation must undergo a treatment process to free the addict from dependence, and it is also a punishment that must be carried out by the addict. The imposition of sanctions or punishment is intended to emphasize the perpetrator and provide a deterrent effect aimed at the perpetrator of the crime not to repeat his actions when he returns to society. The imposition of sentences on perpetrators of narcotics crimes is subject to severe criminal penalties, because narcotics crimes greatly damage the views and interests of the state, because they can damage the future of the Indonesian nation. Criminal sanctions are a form of suffering that is intended to provide consequences for the actions of people who violate applicable provisions, in addition to the hope that the perpetrator will not commit crimes in the future. The types of criminal acts in Indonesia are listed in Article 10 of the Criminal Code, it is

explained that the criminal act includes the main criminal act and additional criminal acts. The main punishments include the death penalty, imprisonment, fines, and closure. So far, additional punishments include the deprivation of certain rights, confiscation of certain assets, and the publication of a judge's decision imposing a penalty of responsibility for the violation committed.

The threat to children who commit a criminal act of imprisonment, the sentence imposed according to Law Number 11 of 2012 concerning SPPA, is half of the maximum threat of imprisonment for adults. This has been stated in Article 81 paragraph (2), which states: "The maximum imprisonment that can be imposed on children is ½ (one half) of the maximum for adults".

Handling drug abuse crimes committed by children involves diverse approaches across different countries, influenced by varying legal frameworks, cultural norms, and societal attitudes towards drug use and juvenile justice. To point out this problem, the author then tried to compare it to other states such as the United States, and the Netherlands address such cases, highlighting differences and similarities in their criminal justice systems.

Indonesia adopts a restorative justice approach, focusing on rehabilitation over punishment for children involved in drug abuse crimes. The legal framework, guided by the Juvenile Justice System Law (UU No. 11/2012), emphasizes diversion and rehabilitation. Children are often placed in rehabilitation centers instead of prisons, aiming to reintegrate them into society. Family involvement and educational

programs are crucial components of this approach, reflecting a balance between legal enforcement and child protection.

In contrast, the United States has a more punitive approach, though it varies significantly by state. Juvenile drug offenders can face severe penalties, including detention in juvenile correction facilities. The approach often depends on the state's drug policies and the nature of the offense. However, there has been a shift towards more rehabilitative measures in recent years, with programs focusing on drug education, counseling, and community service. Drug courts specifically for juveniles have been established in many states to provide tailored rehabilitation programs instead of incarceration.

The Netherlands employs a highly progressive and pragmatic approach to juvenile drug offenses, heavily influenced by its overall liberal drug policy. The Dutch criminal justice system emphasizes harm reduction and decriminalization for minor drug offenses. Juvenile offenders are typically directed towards rehabilitation programs and social services, rather than punitive measures. The goal is to address underlying issues such as social exclusion and mental health problems, promoting a more supportive environment for recovery and reintegration.

Similarities across these countries include a recognition of the importance of rehabilitation and the detrimental effects of incarceration on young offenders. All three systems increasingly emphasize educational and rehabilitative measures, though the extent and implementation of these programs vary. Family involvement

and community-based interventions are common strategies aimed at providing support and preventing recidivism.

Differences are evident in the severity of penalties and the primary focus of interventions. Indonesia's system is more uniformly restorative, while the U.S. exhibits a dual approach, balancing punitive and rehabilitative measures, depending on jurisdiction. The Netherlands stands out for its decriminalization policies and comprehensive harm reduction strategies, treating drug abuse more as a public health issue than a criminal one.

The effectiveness of these approaches is subject to debate and varies based on the metrics used. Indonesia's focus on rehabilitation aligns with international standards on child rights but faces challenges such as resource constraints and inconsistent implementation. The U.S. shows mixed results, with successful outcomes in states with robust rehabilitative programs but ongoing criticism regarding the overall punitive nature of its juvenile justice system. The Netherlands often reports lower recidivism rates and better reintegration outcomes due to its holistic and health-centered approach.

Cultural and societal attitudes towards drugs and juvenile offenders play a significant role in shaping these systems. Indonesia's approach reflects its collectivist culture and strong emphasis on family and community. The U.S. approach is influenced by its diverse and often polarized views on drug policy and criminal justice. The Netherlands' progressive stance is rooted in a broader societal consensus on harm reduction and pragmatic drug policies.

In conclusion, while Indonesia, the United States, and the Netherlands share a common goal of addressing juvenile drug offenses, their methods and outcomes differ significantly. Indonesia's restorative justice model prioritizes rehabilitation within a structured legal framework. The U.S. employs a varied approach, reflecting its complex legal landscape and evolving attitudes towards drug offenses. The Netherlands emphasizes harm reduction and decriminalization, providing a supportive framework aimed at holistic rehabilitation. Each system offers valuable insights and potential lessons for enhancing the effectiveness of juvenile drug offense management globally.

## **DISCUSSION**

In the context of handling cases of drug abuse by children, the criminal justice system in Indonesia must face various challenges and complexities. Based on the latest decision of the Surabaya High Court, there are several patterns and policies applied in handling these cases. This analysis aims to understand more deeply how the criminal justice system works in handling drug cases involving children as perpetrators.

The Surabaya High Court in its various decisions shows a balanced approach between protecting children's rights and law enforcement. Children involved in drug cases are often placed in rehabilitation centers rather than prisons, showing a more humane approach and aiming for recovery rather than punishment alone. This approach is consistent with the principle that children are part of a group that must be protected and their future must be worked on.

In several cases, the Surabaya High Court prioritizes case resolution through diversification, namely directing children to special rehabilitation and education programs. This step aims to return children to the right track without giving them a long-term negative stigma. Diversification is considered more effective in handling children who are caught in drug addiction because it focuses on psychological and social recovery.

However, the main challenge in implementing this policy is the limited availability of adequate rehabilitation facilities. Many cases show that rehabilitation for children is not optimal due to the lack of resources and professional staff who specifically handle children with drug abuse problems. This is an important concern in improving the quality of case handling by the criminal justice system.

The Surabaya High Court also often considers the child's background before making a decision. Factors such as family conditions, environment, and educational history are important considerations in determining the appropriate punishment or rehabilitative action. This approach reflects an effort to understand the underlying causes that drive children to become involved in drug abuse.

In several decisions, judges emphasized the importance of the role of the family in the rehabilitation process. The family is considered the main pillar that can support children to return to normal life. Therefore, decisions often include directions to actively involve the family in the child's rehabilitation program. This holistic approach aims to provide ongoing

support for children after leaving the rehabilitation center.

However, there are also decisions that indicate prison sentences for children, especially if they are involved in a drug trafficking network or commit other serious crimes. In cases like this, prison sentences are considered necessary to provide a deterrent effect and protect society from the negative impacts of drug abuse. However, this punishment is still accompanied by rehabilitation efforts so that children can return to functioning normally in society.

The Surabaya High Court also pays special attention to education and counseling as part of a prevention strategy. Children involved in narcotics cases are often required to participate in counseling and education programs about the dangers of narcotics. This program aims to raise awareness and provide accurate information to prevent future abuse.

This comprehensive approach shows that the criminal justice system seeks to balance law enforcement and the protection of children's rights. Children are not only seen as perpetrators, but also as individuals who need guidance and support to improve themselves. This approach is consistent with the principle of restorative justice which focuses on recovery rather than just punishment.

Recent data shows that the reoffending rate or repeat criminal acts by children who have gone through the rehabilitation process is relatively low. This shows the effectiveness of the rehabilitation program implemented by the criminal justice system. Good rehabilitation not only addresses the problem of drug abuse, but also helps children develop positive life skills.

However, there is still much that needs to be improved in the criminal justice system, especially in terms of coordination between judicial institutions, rehabilitation institutions, and other related agencies. Integration between institutions is key to providing effective and comprehensive treatment for children caught in drug cases. This synergy needs to be improved to ensure that every child receives treatment that suits their needs.

Training and capacity building for officers involved in handling child cases are also important factors. Officers who understand the dynamics of child development and the psychological impact of drug abuse will be better able to provide appropriate and effective treatment. Therefore, investment in training and professional development for officers is essential.

The policy for handling drug cases involving children also needs to be supported by clear and firm regulations. The Surabaya High Court in several of its decisions often refers to the Child Protection Law and other related regulations as the legal basis for making decisions. This legal certainty is important to ensure that every child receives fair treatment and in accordance with applicable provisions. Overall, the Surabaya High Court's decision shows a serious effort in handling cases of drug abuse by children with a balanced and comprehensive approach. Although there are still many challenges to be faced, the steps that have been taken show progress in handling this case. It is important for all parties to continue to work together and innovate in finding the best solution for the future of children caught in drug cases.

## CONCLUSION

In conclusion, criminal sanctions are imposed on children who abuse drugs as a response to their violation of societal norms and criminal laws. These sanctions consist of principal and additional penalties. Principal penalties include warnings, conditional penalties, job training, institutional guidance, and imprisonment. Additional penalties may involve the confiscation of profits obtained from criminal acts or the fulfillment of customary obligations. Children who commit drug abuse offenses are subject to criminal penalties and rehabilitation. However, it is important to note that the punishment for children can only be imposed up to half of the maximum sentence applicable to adults. This approach reflects a balance between holding children accountable for their actions and recognizing their need for rehabilitation and support.

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