



Child Drug Abuse: Factors, Judicial Process, and Legal Protection

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Abstract

Drug abuse among children is a serious issue that requires special attention. This article discusses the factors that influence children from engaging in drug abuse, the judicial proceedings against them, and the legal protections provided. The research method used is a normative legal research method with a qualitative approach. The results showed that peer factors, personality, psychiatric conditions, family, and the availability of narcotics in the market play an important role in narcotics abuse. The juvenile justice process for drug abusers goes through several stages, including investigation, prosecution, trial, and formation at the Special Child Development Institute. Legal protection for children is regulated in the Child Protection Law and the Juvenile Criminal Justice System Law. The adverse effects of the formal criminal justice process are also discussed, including trauma, stigma, and exclusion from school. Diversion programs are an important alternative to protect children from the negative consequences of the formal criminal justice process.

Keywords: Drug Abuse, Children, Judicial Process, Legal Protection,

1. Introduction

The threat of drug abuse in Indonesia is increasingly worrying, especially among the younger generation (Isrofah, et al., 2021). The spread of narcotics has extended to the school and campus environment, affecting various layers of society. Data from the Central Java Provincial National Narcotics Agency (BNNP) shows that workers are the largest user group, reaching 50.34%, followed by students and college students at 27.32%, and unemployment at 22.32%. This condition was revealed by the Head of the Central Java BNNP, Brigadier General of Police Muhammad Nur, in a Forum Group Discussion (FGD) entitled "Central Java Drug Emergency" at the Central Java Parliament Building (Saar-Heiman et al., 2023).

Drug abuse is not limited to certain groups, it has touched all segments of society, including children and adolescents. Interestingly, the age of first involvement in drug abuse on average occurs in a very vulnerable age range, namely 12-15 years (Johnston, et al., 2015). Data shows that around 7.5% of students and college students have tried drugs, with 4.5% of them continuing to use a year later (Schulenberg, et al., 2017). In addition, the level of drug abuse also shows differences based on gender, age, and education level. Higher rates of abuse were recorded among males, and the higher the level of education, the greater the incidence of abuse.

Based on data from BNNP Central Java, special attention should be given to the vulnerable young age group, namely 12-15 years old, who are legally recognized as children according to Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (Trimaya, 2018). Children are an integral part of the young generation, a potential and successor to the ideals of the nation's struggle. Protection, training and supervision are needed to ensure their physical, mental and social growth and development are complete and balanced (Sapsudin & Syam, 2023).

The increasing cases of drug abuse among children and adolescents have a serious impact on the crime rate. Therefore, it is important to provide legal protection to children as state offenders. Preliminary data from BNNP Central Java for 2019-2020 shows a significant increase, reaching 60%, signaling a serious escalation of this problem.

Law No. 35/2014 on Child Protection, together with Law No. 11/2012 on the Juvenile Justice System, have established a strong legal foundation to protect children's rights, including in the context of handling criminal offenses. With a focus on child protection, the Law ensures that children involved in criminal offenses are treated specially, taking into account their fragile nature and the future that forms the nation's assets.

It is important to emphasize that law enforcement officers must understand the fundamental differences between children and adults in handling criminal cases. The exclusive psychological condition of children requires a different approach, including special protection against actions that can have a negative impact on their mental and physical development.

However, in practice, there are facts that show that the rights of children, especially child offenders, are often not fully protected during the investigation and judicial processes. Therefore, the mandate of Law No. 11/2012, particularly regarding restorative justice, must be prioritized to ensure the protection and fulfillment of children's rights.

According to Law No. 11/2012, Article 22, children can only be subject to punishment in accordance with the provisions of the applicable law (Haris & Risky, 2019). However, for children aged 8-18 years, the application of the exclusive limitations of the Law must be considered. Diversion is an important approach in achieving restorative justice for juvenile offenders, especially in drug abuse cases. Thus, children are not only free from prison, but can also develop according to their own potential and dignity.

Based on the context described above, several research problems were formulated, namely: First, what factors influence children as perpetrators of drug abuse? Second, how is the judicial process against children as perpetrators of drug abuse crimes? Third, what is the form of legal protection for children who abuse drugs?

This study aims to provide a comprehensive overview of how the law and judicial process can provide maximum protection for children's rights, especially in the context of drug abuse. By understanding the factors that influence children, as well as the applicable judicial process, it is hoped that effective solutions and strategies can be found in dealing with cases of this kind (Isnawan, F. 2023).

The enforcement of the rule of law against juvenile offenders is an issue that has received attention in several previous studies. Several studies such as "The Effectiveness of the Application of Criminal Sanctions Against Children Who Commit Criminal Offenses" discuss the effectiveness of the Juvenile Criminal Justice System and its implications for criminal law policy and enforcement (Sinatrio, 2019). In addition, "Diversion as an Alternative Settlement of Criminal Cases Committed by Children in the Perspective of the Juvenile Criminal Justice System" by Sri Rahayu discusses the role of Diversion as a form of penal mediation in the settlement of juvenile criminal cases and the regulation of Diversion in the juvenile criminal justice system in Indonesia (Abdurrachman & Sadewo, 2016).

A study of the concept of Restorative Justice in the Juvenile Criminal Justice System has also been conducted by Randy Pradityo in his research entitled "Restorative Justice in the Juvenile Criminal Justice System." The research explores the concept of Restorative Justice as an implementation of diversion that has been formulated in the juvenile criminal justice system.

Meanwhile, criminal law enforcement against narcotics abuse is an integral part of international narcotics control policies, as has been studied in a study by Ian G. Waddell entitled "International Narcotics Control" (Birk & Waddell, 2017). The factor of drug abuse by children also cannot be seen as a contemporary phenomenon, and there is a need for effective law enforcement to minimize drug abuse cases.

Although this discussion has been conducted in previous research, this article aims to explore in more depth how law enforcement against child drug abusers has been regulated in the juvenile criminal justice system. This research will examine relevant legal provisions, including regulations on juvenile criminal offenses and other regulations that can provide a deeper understanding of law enforcement against children involved in drug abuse. The aim is to provide a better reference for legal certainty in the future and to ensure that the rights of children who abuse drugs are properly protected in the applicable juvenile criminal justice system.

2. Research Methods

This research uses normative legal research methods, which is an approach that is generally carried out in literature law research with a focus on analyzing statutory regulatory norms. In conducting this study, a deductive thinking approach was used, which refers to a way of thinking that draws specific conclusions from a general premise. This method is used to analyze legal norms related to the values of well-being and justice in society.

The analysis conducted in this study is qualitative, with emphasis on the quality of the data rather than its quantity. Data used as a source of information are statutory documents, books, legal journals, and expert opinions relevant to the problems studied in this article.

The normative legal research method is an appropriate method to analyze the legal framework that applies in the context of law enforcement against child drug abusers. With this approach, research will be able to dig deeper into how such legal norms are regulated and to what extent they promote values of well-being and justice in society.

3. Results and Discussion

3.1. Factors Influencing Children as Perpetrators of Drug Abuse

This study identifies factors that influence children as perpetrators of drug abuse. These factors can be classified into three main groups:

- a) The experience seekers: The first group is those who want to experience the sensational new experiences that drugs can provide. They may be interested in trying drugs based on the influence of close friends, movies, or news in newspapers. Their reasons vary, ranging from relieving boredom to getting attention from parents.
- b) Phenomenons (the oblivion seekers): The second group is those who want to escape from reality or the stresses of their lives. They feel that drugs can be an escape from the stresses of everyday life, such as loneliness, boredom, disappointment, and anxiety.
- c) Who wants to change their personality: The third group is those who feel insecure and want to change their personality. They may use narcotics as a tool to cope with fear, shame, or social discomfort. Other reasons include seeking courage in dangerous acts, facilitating the channeling of sexuality, and seeking meaning in life.

In addition to the above factors, there are other factors that also play a role in narcotics abuse:

- a) Personality Factors: Refers to individual characteristics and traits that may influence a person's propensity to use narcotics. For example, individuals with personalities that tend to be antisocial or psychopathic may be more susceptible to drug abuse.
- b) Psychiatric Condition: Includes a person's psychological and emotional state. People who experience depression, anxiety, or feel disillusioned with their lives may tend to seek out for drug escapes as a way to cope with those problems.
- c) Family Conditions: Included in this factor is family stability and integrity. Broken or troubled households can create an environment vulnerable to drug abuse, especially for children and adolescents seeking an escape from difficult situations at home.
- d) Peer Group: Interaction with peers has a great influence on a person's behavior. If a person is in an environment where his friends use narcotics, it is more likely that the individual will be affected and more susceptible to try.
- e) Availability of Narcotics in the Market: The availability of narcotics in the market, both legally and illegally, can affect the level of abuse. If narcotics are easily accessible and available in the neighborhood, then the likelihood of people trying or using narcotics will increase.

All of these factors can interact with each other and influence a person's decision to use narcotics. It is important to understand that narcotic abuse is not the result of a single factor, but is the result of a combination of different factors that affect individuals in a complex way. Therefore, approaches to preventing and addressing the problem of drug abuse must be comprehensive and involve various aspects of an individual's life.

3.2. Judicial Process Against Children as Perpetrators of Drug Abuse Crimes

The judicial process against children as perpetrators of drug abuse crimes refers to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and involves four main stages:

- a) Investigation Stage: This stage is the beginning of the judicial process, where law enforcement officials conduct investigations against children suspected of drug abuse. During this stage, evidence will be collected, and the identity of the accused will be established. The results of this investigation became the basis for continuing the judicial process.
- b) Public Prosecution Phase: After the investigation stage, the public prosecutor will determine whether the child will proceed to court. At this stage, the public prosecution will prepare primary and subsidiary charges based on the available evidence. The decision to sue this child is based on applicable laws and regulations.
- c) Trial Stage: The trial stage involves various processes such as the submission of evidence, the examination of witnesses, and the hearing of the accused. At this stage, all parties involved have the opportunity to present arguments and evidence that support their case. The final verdict will be taken by the judge after hearing all the evidence and arguments.
- d) Coaching Stage at LPKA (Lembaga Pembinaan Khusus Anak): If the child is found guilty, then the last stage is coaching at LPKA or other special institutions. The purpose of this stage is to provide opportunities for children to correct behavior and get appropriate education during their criminal years. LPKA has the task of carrying out guidance for correctional students.

Decision No.1/Pid.Sus-Anak/2017/PN Smg is a concrete example of the judicial process against children suspected of drug abuse. The verdict includes the identity of the defendant, the results of the investigation, charges, charges, trial facts, witness statements, defendant statements, judge's consideration, verdict, case analysis, and conclusions. It is important to note that this judicial process must be in accordance with applicable statutory provisions, such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. A fair and lawful trial process is important to protect the rights of children involved in drug abuse cases.

3.3. Legal Protection for Child Drug Abusers

Legal protection of children involved in drug abuse is carried out by referring to the human rights of children listed in the Convention on the Rights of the Child. This includes children's rights to live a decent life, grow up without interference, be protected from all forms of violence, and participate in decisions that affect their lives.

In the context of Indonesian law, the Child Protection Law has been amended through Law Number 35 of 2014, affirming the country's commitment to protect the rights of children, including children involved in drug abuse.

The issuance of Government Regulation in Lieu of Law (Perppu) Number 1 of 2016 concerning Child Protection is an important step in addressing the problem of violence, especially sexual violence against children, showing the government's efforts in improving child protection.

Article 67 paragraph (1) of the Child Protection Law emphasizes that the government and related institutions have an obligation to provide special protection to children who are victims of abuse of narcotics, alcohol, psychotropics, and other addictive substances (drugs). This reflects a serious commitment to protecting children from the negative effects of drug abuse. Thus, legal protection efforts for child drug abusers become an important part of the Indonesian legal system to ensure that children's rights remain protected, even in difficult situations such as drug abuse cases.

In addition, Indonesia also has a Narcotics Law which stipulates that the government is obliged to conduct training and supervise all narcotics-related activities, including efforts to prevent the involvement of minors in drug abuse. This includes preventing drug abuse by young people and school-age children, even by including narcotics-related education in the primary school curriculum to the upper level (Article 60 paragraph (2c) of the Narcotics Law).

In the juvenile criminal justice system in Indonesia, in accordance with the Juvenile Criminal Justice System Law (SPPA), every child who commits a crime, including children involved in drug abuse, can be faced with the same judicial process as adult criminal offenders.

The juvenile criminal justice system includes various stages, such as police involvement when the child is first involved in the justice system, the role of the prosecutor and the parole forum that will decide whether the child will be released or tried in juvenile court. Furthermore, there is a juvenile court that determines whether the child will be released or punished. Finally, the punitive institution will manage the convicted child.

This juvenile justice system includes all activities related to the handling of children that involve their interests. This includes the activities of police, prosecutors, judges, and other officials who must always consider the interests and welfare of children in every step of handling cases.

However, as vulnerable parties, children, especially children involved in criminal acts, can experience adverse effects when placed in criminal justice proceedings. These adverse effects include acts of violence, both physical, psychological, and sexual. This violence can include beatings, threats, insults, or even other cruel and inhumane acts. This violence can also have a negative impact on the psychological well-being of the child and can lead to shock. In addition, children are also at risk of sexual violence, such as rape, fornication, torture, and sexual abuse. In this context, legal protection for children involved in drug abuse is very important to prevent adverse effects such as violence and ensure that children's human rights remain protected.

The criminal justice process on children involved in acts of drug abuse can have a significant negative impact. This process leaves a mark in the child's memory and can result in various psychological problems. These impacts include:

- a) Fear and Anxiety: Children can experience fear and anxiety during the judicial process, especially if they do not understand the legal process and its consequences.
- b) Sleep and Appetite Disorders: Exhausting judicial processes can disrupt a child's sleep and appetite patterns, which in turn can negatively impact their physical and mental health.
- c) Mental Disorders: The psychological burden of formal judicial proceedings can lead to mental disorders in children, such as depression or anxiety disorders.
- d) Stigma: Children who experience criminal justice proceedings may experience negative stigma from society, which can affect their social lives and future.
- e) Out of School: Children involved in criminal justice proceedings may be forced to be absent from school, which can interfere with their education and impact their academic future.

In an effort to avoid these negative impacts, Indonesia's Juvenile Criminal Justice System Law (SPPA) provides a program called "diversion." Diversion is an attempt to shift the resolution of child cases from the criminal justice process to a path outside of criminal justice. The purpose of diversion is to protect children's human rights and prevent them from being adversely affected by the criminal justice process.

Diversion can take the form of a variety of things, such as reconciliation or peace with affected parties, the return of the child to parents or guardians, participation in education or training programs, or community service. However, diversion can only be applied if the child involved in the crime does not repeat his actions and if the penalty does not exceed 7 years in prison (in accordance with Article 7 paragraph (2) of the SPPA Law).

Thus, diversion is one of the efforts to protect the rights of children who abuse drugs and prevent them from the adverse effects of the criminal justice process. This provides an opportunity for the child to get protection and support that suits their interests. The classification of narcotics is an important factor in the application of the law to children of drug abusers, because the type and potential dependence of narcotics can affect the legal handling of these cases.

4. Conclusion

Drug abuse among children and adolescents is a serious issue that requires special attention and protection. Factors that influence children to become drug abusers include the urge to seek new experiences, attempts to avoid reality or life phenomena, and the desire to change their personality.

The judicial process against children as perpetrators of drug abuse crimes follows the stages of investigation, prosecution, trial, and guidance at the Special Child Development Institute (LPKA). The judicial verdict must take into account the identity of the accused, the results of the investigation, the charges, the facts of the trial, and witness statements.

Legal protection for child drug abusers involves ensuring children's freedom and human rights. The Child Protection Law and the Juvenile Criminal Justice System Act are important instruments in this regard. In addition, prevention efforts are also carried out by incorporating narcotics-related education into the school curriculum. The formal criminal justice process can have a devastating impact on a child, including trauma, stigma, and even the risk of being expelled from school. Diversion is an alternative to divert children from the formal judicial process, provide protection for children's human rights, and help them free from drug bondage in the future.

The classification of narcotics is an important factor in the legal handling of child abusers, because the level of efficacy, purpose, and potential dependence on narcotics affects the handling of the case. Thus, the protection and handling of drug abuse cases among children requires a comprehensive approach, involving prevention efforts, fair judicial processes, and diversion alternatives to protect children's rights and help them recover.

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