

## Law Enforcement in the Eradication of Criminal Acts in Children and Youth Generations

Yuniar F Danil, Agung Faris Sintusa  and Teguh Bayu Aji

Postgraduate Program, Faculty of Law, Universitas Jenderal Soedirman, Purwokerto - Indonesia

---

### Abstract

Drug abuse is an extraordinary crime that destroys threaten the security and sovereignty, the continuity of development and the future of the nation and state. In Indonesia. Many cases are caused by drug use cases. If viewed from the juridical aspect, the existence of narcotics is legal. Law Number 35 of 2009 concerning Narcotics only prohibits the use of narcotics that are not in accordance with the provisions of the law. The method used in this article uses library research with descriptive analysis specifications and uses a statutory approach and a case approach. While the materials used are primary legal materials, secondary legal materials and thesis legal materials with data collection techniques based on library research and technical data analysis using deductive methods. Children who abuse narcotics still have to follow the process of solving cases, only for the Juvenile Criminal Justice System to use Restorative Justice with the concept of Diversion to prevent children from the negative stigma of justice. However, in the case of IMAN SONJAYA and RATIH SIYAMITA, who are children of perpetrators of criminal acts of abuse, they received different decisions. According to Victimology, children who are victims of drug abuse are classified as self-victimizing victims, they are victims on the one hand as perpetrators. The government's efforts in preventing and exterminate drug abuse and illicit trafficking among the youth generation are carried out comprehensively and multidimensionally and try to eliminate the view that the problem of drug abuse and illicit trafficking is not only a government problem, but is a problem that must be tackled together.

**Keywords:** children, youth generations, drug abuse, crime.

### Abstrak

Penyalahgunaan Narkoba merupakan kejahatan luar biasa yang dapat mengancam kelangsungan keamanan dan kedaulatan negara, pembangunan dan masa depan bangsa dan Negara. Banyak kasus yang disebabkan oleh kasus penggunaan narkoba. Jika ditinjau dari aspek yuridis maka keberadaan narkotika adalah sah. Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika hanya melarang penggunaan narkotika yang tidak sesuai dengan ketentuan undang-undang. Metode yang dipakai dalam artikel ini menggunakan penelitian kepustakaan dengan spesifikasi deskripsi analisis dan menggunakan pendekatan perundang-undangan dan pendekatan kasus. Sedangkan bahan yang dipakai menggunakan bahan hukum primer, bahan hukum sekunder dan bahan hukum tesier dengan teknik pengumpulan data berdasarkan studi kepustakaan dan teknis analisis data menggunakan metode deduktif. Anak yang melakukan penyalahgunaan narkotika tetap harus mengikuti proses penyelesaian perkara hanya saja untuk pada Sistem Peradilan Pidana Anak menggunakan Restorative Justice dengan konsep Diversi untuk menghindarkan anak dari stigma negative Peradilan. Akan tetapi pada kasus IMAN SONJAYA dan RATIH SIYAMITA yang merupakan anak pelaku tindak pidana penyalahgunaan, namun diantara mereka mendapat putusan yang berbeda. Adapun menurut menurut Ilmu Viktimologi, Anak yang menjadi korban penyalahgunaan narkoba tergolong kepada self victimizing victims, yaitu mereka disatu sisi menjadi korban disatu sisi sebagai pelaku. Upaya pemerintah dalam pencegahan dan pemberantasan terhadap penyalahgunaan dan peredaran gelap narkoba pada kalangan generasi muda dilakukan secara komprehensif dan multidimensional serta berusaha menghilangkan pandangan bahwa masalah penyalahgunaan dan peredaran gelap narkoba bukan hanya masalah pemerintah saja, tetapi harus ditanggulangi bersama.

**Kata kunci:** anak, generasi muda, penyalahgunaan narkoba, tindak pidana.

## Introduction

Drugs and unlawful acts are extraordinary crimes that can damage the order of family life, society and the school environment, even directly or indirectly threaten the continuity of development and the future of the nation and state. In recent years, Indonesia has become one of the main markets for international drug trafficking networks for commercial purposes. For drug trafficking networks in Asian countries, Indonesia is considered the most commercially market country for international organizations operating in developing countries. The problem of drug addiction is not only a problem that needs the attention of the Indonesian state but also the whole world (Adi, 2014).

Narcotics crime is a transnational organized crime, namely crimes that occur across national borders and involve network groups that work in more than one country to plan and carry out illegal business. Narcotics crime has been transnational in nature, carried out using a high modus operandi, sophisticated technology, supported by an extensive network of organizations and has caused many victims, especially among the Youth Generations which is very detrimental to the life of the community, nation and state.

Regarding free trade, Indonesia has established legal rules governing the law of free trade. Free trade law is a legal norm, legal norm and legal principles relating to the economic field, especially trade, which is carried out by countries to meet the needs of the free world economy in accordance with applicable international law principles (Purwosutjipto, 2015).

In the era of free trade, in fact the boundaries between countries are increasingly blurred even though the jurisdictions remain unchanged. Perpetrators of crimes do not know territorial boundaries or jurisdictional boundaries, they operate from one territory of the State to the territory of another State freely. Criminals have long used the concept of free trade without being faced with legal signs, even what is happening in various countries in the world today, the law with all its limitations becomes a protector for the perpetrators of these crimes.

International organized crime is a threat to countries and people in the world that can erode human security and the basic obligation of the State to maintain security and order. One form of international crime that is crucial because it concerns the future of the youth generation in the world, especially among this country, is a crime in the field of narcotics abuse

In Indonesia, narcotics have reached an alarming level and can threaten the security and sovereignty of the country. Many cases are caused by drug use cases. Areas that have never been touched by drug trafficking are gradually becoming centers of drug trafficking. Likewise, children under the age of 21, who should stay away from these contraband items, have recently become difficult drug addicts (Arief, 2013). Drugs as referred to in Article 1 (1) of the Law on Drug Control Number 35 of 2009 (Narcotics Law), are substances or drugs derived from plants or non-vegetables, either synthetic or semi-synthetic, synthetic, which can reduce or change awareness, loss of taste, pain relief, and possibly addiction. Currently narcotics can be made easily, making it difficult to detect by users.

In this case, if viewed from the juridical aspect, the existence of narcotics is legal. Law Number 35 of 2009 concerning Narcotics only prohibits the use of narcotics not in accordance with the provisions of the law. This situation has resulted in narcotics being often misused not for the sake of treatment and science but as a promising and rapidly growing business arena where this activity has an impact on physical and mental damage to all levels of society.

The eradication of narcotics certainly cannot be suppressed if law enforcement officers only focus on the level of users. Users and addicts should be placed as victims or patients who must be rehabilitated and the target of police operations is dealers/porters. Logically, by arresting users, of course it can help to catch the dealers who then users with certain categories can be sentenced to rehabilitation as mandated in the Circular Letter of the Supreme Court (Surat Edaran Mahkamah Agung/SEMA) No. 7 of 2009 concerning placing drug users into Therapy and Rehabilitation Institutions. Meanwhile, the dealers are given strict criminal sanctions, even if they meet the conditions, they can be sentenced to death. It can be said that on the one hand there is an extraordinary spirit in eradicating narcotics and narcotics precursors in the narcotics law, but on the other hand it is also reflected in the spirit of protecting narcotics abuse both as addicts and as victims of narcotics abuse.

Narcotics crimes are criminal acts that are neatly organized, this can be seen from the cases that are caught and revealed are network work. Perpetrators of narcotics crimes may be subject to sanctions under Law Number 35 of 2009 concerning Narcotics, which can be classified as follows:

1. As a user, this is subject to criminal provisions based on Article 116 of Law Number 35 of 2009 concerning Narcotics with a penalty of 5 years and a maximum of 15 years.
2. As a dealer, can be subject to criminal sanctions based on Articles 81 and 82 of Law Number 35 of 2009 concerning Narcotics with a maximum penalty of 15 years and/or an additional fine.
3. As a producer, who can be subject to criminal penalties based on Article 113 of Law Number 35 of 2009 concerning Narcotics, with a maximum penalty of 15 years and/or life/death plus a fine.

The form of the formulation of criminal sanctions in Law Number 35 of 2009 concerning Narcotics, can be grouped as follows:

1. In the singular (jail or fine only).
2. In alternative form (choice between fine or imprisonment).
3. In the form of cumulative (prison and fines).
4. In the form of a combination/mixed (prison and/or fine) (Sasangka, 2011).

Article 10 of the Criminal Code determines the types of crimes, namely:

1. The main punishment consists of the death penalty, imprisonment, confinement and a fine.
2. Additional punishment consisting of revocation of certain rights, confiscation of certain goods and announcement of judge's decision.

In line with the provisions in Article 10 of the Criminal Code, there are 4 types of crimes in the narcotics law, namely capital punishment, imprisonment, fines and imprisonment. For this reason, as long as it is not stipulated otherwise in the narcotics law, the punishment rules follow the criminal provisions in accordance with the Criminal Code. On the other hand, if it is determined separately in the narcotics law, then the punishment rules in accordance with the narcotics law will be applied.

It is worrying to see the pattern of distribution and consumption of drugs among teenagers, because drugs clearly threaten the future of the children of this country. For this reason, it is necessary to have social awareness in combating drug trafficking by using all existing potential, starting from law enforcement, the bureaucracy and the community as well as coordinating well, so that the youth generation avoids being persuaded to use drugs.

Drug addicts need rehabilitation. In this case, what is meant by drug addicts based on the Circular Letter of the Supreme Court Number 7 of 2009 (SEMA) concerning Placement of Abusers, Victims of Abuse and Drug Addicts in Social Rehabilitation and Rehabilitation Institutions are those who use or abuse drugs in a state of physical and psychological dependence, versus placing aggressors, aggressor victims, and drug addicts into social-health rehabilitation facilities. This means placing drug addicts as victims of drug crimes.

According to Saparinah Sadli, crime or crime is a form of deviant behavior that always exists and is inherent in every social form, there is no society without crime. According to him, deviant behavior is a real threat or threat to social norms that underlie life or social order, which can cause personal and social tensions in society, and is an actual or potential threat to the continuity of the social order (Muladi, 2013). It can be said that the privileges given to drug addicts/users in Indonesia to get the right to rehabilitation have made many youth drug users aware of themselves because law enforcement in Indonesia is not yet solid and does not provide a deterrent effect.

Law enforcement aims to make people obey the law. People's obedience to the law is caused by three things, namely: (1) fear of crime; (2) fear because the authority of authority is bound by the nature of law as an imperative; (3) fear of shame when doing wrong. Law enforcement in a non-criminal manner has internal aims and objectives (Sonarso, 2014). Laws governing drug problems have been drafted and enforced through the Narcotics Law. However, drug crimes have not been appeased. Lately, many drug dealers and dealers have been arrested and given severe punishments, but this does not seem to have a deterrent effect for other perpetrators to expand their area of operation (Kaligis, 2014).

To increase the effectiveness of prevent and eradicate drug abuse and illicit trafficking, it is regulated by strengthening existing institutions, namely the National Narcotics Agency. According to the National Narcotics Agency as the focal point in the field of Prevention and Eradication of Drug Abuse and Illicit Trafficking (P4GN), the number of drug abuse in 2017 is 3,376,115 people in the age range of 10-59 years. Meanwhile, the number of drug abuse among students in 2018 (from 13 provincial capitals in Indonesia)

reached 2.29 million people. One group of people who are prone to being exposed to drug abuse are those who are in the age range of 15-35 years or the millennial generation.

To overcome the problem of drug abuse in Indonesia, rehabilitation and law enforcement must be at the forefront. Addicts, which currently number around 4 million, must be rehabilitated, while dealers and traffickers must be severely punished in accordance with Law no. 35 of 2009 concerning Narcotics. There have been many studies regarding drug abuse by children, such as:

1. Law Enforcement Against Narcotics Abuse by Children in Sleman Regency, Journal written by Sainrama Pikasani Archimada Master of Law Faculty of Law, Islamic University of Indonesia Yogyakarta, the research method used is empirical juridical conducted by interview. The research focuses on the factors that cause drug abuse by children in Sleman Regency. The conclusion is that the cause consists of internal and external factors. Internal factors include: (1) age; (2) wrong view; and (3) lack of religious character. The external factors include: (1) family; (2) economy; (3) environment; and (4) technological progress. Law enforcement is carried out in overcoming narcotics abuse by children, namely by conducting investigations, investigations and rehabilitation. In practice, law enforcement carried out in Sleman Regency with all the obstacles experienced, has been in accordance with the SPPA Law but no diversion is carried out.
2. Journal with the title "Criminal Actions on Narcotics Abuse in Children in Positive Law in Indonesia" written by Rachmadhani Mahrufah Riesa Putri and Subekti with a focus on regulating criminal acts of narcotics abuse in children in positive law in Indonesia. As for the results of his research that the regulation of narcotics abuse by children in positive law in Indonesia, namely children as narcotics abusers can be subject to actions in the form of returning to parents/guardians, surrendering to someone, treatment in a mental hospital, treatment at LPKS, obligation to attend formal education and/or training held by the government or private bodies, revocation of driving license and repairs due to criminal acts. In addition, children can also be subject to criminal sanctions. Child criminal sanctions consist of principal and additional penalties. The main punishment consists of a warning sentence, conditional punishment, job training, coaching in institutions; and prison. Additional penalties consist of confiscation of profits derived from criminal acts or fulfillment of customary obligations. Children as victims of narcotics abusers also get special protection from the government and state institutions in the form of supervision, prevention, treatment, and rehabilitation by the government and the community.

## Research Problems

Based on the preliminary above, the formulation of the problem to be solved is as follows:

1. How is law enforcement against narcotics crimes in Indonesia according to Law Number 35 of 2009 concerning Narcotics?
2. How is the protection of children in narcotics abuse in terms of victimology?

3. What are the Government's efforts in overcoming drug use among the youth generation?

## Research Methods

The research conducted in this article uses library research. The research method carried out by reading and studying theories related to the topic. The specification in this study is a description of the analysis which is the method used in research to describe a condition or fact that is ongoing, so that it can explore and provide data about the object of research in detail and find legal facts. The approach uses a statutory approach. This legal approach will assist the author in studying the consistency and suitability of the laws with each other. In addition to legislation, another approach used is the case approach.

The writing of this scientific paper uses primary legal materials, secondary legal materials and thesis Primary legal materials in the form of laws and regulations related to issues raised in the form of Law Number 35 of 2009 concerning Narcotics, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the Brebes District Court Decision Number 4/Pid.Sus-Anak/2015/PN Bbs, and the Nganjuk District Court Decision Number 16/Pidsus A/2017/PN Njk. The collected data is then processed according to data processing methods which include: Legal methods, especially complementary methods by complying with applicable legal standards or rules. This discussion method is used according to the need to create a discussion that is acceptable both from a legal and scientific perspective.

## Discussion

### **Law Enforcement against Narcotics Crime in Indonesia according to Law No. 35 of 2009 concerning Narcotics**

The impact of drug abuse cannot be underestimated because, like corruption, it threatens both the progress of the nation and the security of the state. Drug cases are still a trend or still apply in some crimes or other offenses and that too is limited to cases that are disclosed or recorded. It's no secret that many drug cases are resolved "amicably" so that the cases go unrecorded.

Narcotics are substances or drugs derived from plants or not, synthetic and semi-synthetic, which can cause decreased or altered consciousness, loss of taste, pain relief, and possibly addiction. It can be said that on the one hand narcotics are addictive substances or materials that are useful in the fields of medicine, medical services and scientific development, but on the other hand they can cause addiction which is very dangerous if not used seriously, and strictly control. Strictly controlled and monitored.

In this case, from a legal point of view, the existence of drugs is legal. The Narcotics Law only prohibits the use of narcotics that are not in accordance with the provisions of the law. This situation at an experimental level has resulted in the abuse of narcotics not for medicine and science, but as a promising and rapidly growing commercial area where

its activities have harmful physical and mental effects on all walks of life. In terms of age, drugs are not only favored by teenagers but also by middle-aged and elderly people. Drug trafficking is no longer limited to big cities but has spread to small towns and sub-districts, even villages (Sasangka, 2011).

An abuser is someone who has a problem that is directly related to drugs. These problems can arise in the physical, mental, emotional and spiritual realms. Abusers always refuse to quit completely and forever. According to psychiatrist Graham Blaine, the causes of drug abuse are as follows (Sasangka, 2011):

1. To prove courage in carrying out dangerous and risky actions;
2. To challenge an authority against parents, teachers, law or other authorities;
3. To facilitate the distribution and sexual acts;
4. To escape from loneliness and want to gain emotional experience;
5. To strive to find the meaning of life;
6. To fill the void and fill the feeling of boredom, due to lack of business;
7. To relieve frustration and anxiety caused by insurmountable problems and dead-end thoughts, especially for those who have a personality that is not harmonious;
8. To follow the will of friends and to cultivate solidarity with friends;
9. Because it's driven by curiosity (curiosity) and because it's just for kicks.

The causes of illegal narcotics use by teenagers can be grouped into three desires, namely (Dirdjosisworo, 2013):

1. Those who want to experience (the experience seekers), that is, they want to get new experiences and sensations from the effects of narcotics use;
2. Those who intend to stay away from or avoid the reality of life (the oblivion seekers) are those who consider the anesthetized state as the most beautiful and most comfortable place of escape;
3. Those who want to change their personality (personality change) are those who think that using narcotics can change their personality, such as being less rigid in their relationships.

As for adults and the elderly, the reasons for using narcotics are as follows (Sasangka, 2011):

1. Relieve pain from chronic disease;
2. Becomes a habit (due to healing and pain relief);
3. Escape from frustration;
4. Increases the ability to perform (usually as a stimulant).

Drug eradication certainly cannot be suppressed if law enforcement officers only focus on the user level. Users and addicts must be treated as victims or patients must be rehabilitated, and the target of police activity is traffickers. The logic is of course that by capturing users, it can help to catch resellers, which then certain categories of users can be forgiven as stipulated in the Circular Letter of the Supreme Court (SEMA) Number 7 of 2009 concerning the Placement of Drug Addicts in Therapy. and rehabilitation facilities. Meanwhile, traffickers face severe criminal penalties, even if they meet the criteria, they can be sentenced to death. It can be said that on the one hand there is an extraordinary

spirit in eradicating drugs and drug precursors in the Narcotics Law, but on the other hand it is also reflected in the spirit of protecting drug addicts and victims. drug abuse. The formulation of criminal sanctions in the Narcotics Law can be grouped as follows:

1. In the singular (jail or fine only)
2. In alternative form (choice between fines or imprisonment)
3. In cumulative form (prison and fines)
4. In a combination/mixed form (jail and/or fine).

Perpetrators who use narcotics without rights and against the law are criminals. Crime or crime is one form of "deviant behavior" which is always present and inherent in every form of society, there is no society that is free from crime in the legal sense, namely human actions that can be punished by criminal law. The role of law enforcement officers includes the role of a judge whose job is to try the defendant. One of the main tasks of judges is to uphold justice, besides upholding justice, judges are also tasked with re-enforcing laws that have been violated.

Narcotics abuse is a crime because it uses narcotics without rights or is against the law and is used in a negative way which causes users to want to use them many times. So, after a long time people become addicted (addiction), do not want to be separated from that sense of pleasure, even though their souls are threatened. In the case of narcotics abuse, whether to apply criminal sanctions or sanctions, the determination of which is entirely in the hands of the judge. Because the provisions of the narcotics law give the judge the authority to impose imprisonment or rehabilitation measures for narcotics addicts. The existence of judges who are free and impartial in the criminal justice process greatly determines the realization of the objectives of the criminal justice system. An independent and impartial judge has become a universal provision and characterizes the rule of law. Based on the description above, on the one hand, the perpetrator of narcotics abuse is a crime and the perpetrator of the crime must be punished, namely by imprisonment for using narcotics without rights and against the law.

Article 10 of the Criminal Code (KUHP) determines the types of crimes, namely:

1. The main punishment consisting of the death penalty, imprisonment, confinement, and a fine;
2. Additional punishment consisting of revocation of certain rights, confiscation of certain goods, and announcement of judge's decision.

According to the provisions of Article 10 of the Criminal Code, the Narcotics Law has 4 (four) types of crimes, namely capital punishment, imprisonment, fines and execution. For this reason, as long as the drug law does not regulate otherwise, the principles of sanctions are subject to the criminal provisions of the Criminal Code. On the other hand, if it is determined separately in the narcotics law, then the sanctions provisions in the narcotics law apply. For example, the provisions of Article 18 are as follows (Sujono, 2012): "if the sentence for a fine as regulated in this law cannot be paid and the perpetrator of a narcotic crime and narcotics precursor crime, the perpetrator is sentenced to a maximum imprisonment of 2 (two) years as a substitute for a fine that is not can be paid." The



provision for punishment in Article 18 is different from the Criminal Code, in that the alternative punishment for unpaid sentences in the Criminal Code is imprisonment, not imprisonment.

In Article 127 of the Narcotics Law which states:

1. Any Abusers:
  - a. Narcotics Category I for oneself shall be sentenced to a maximum imprisonment of 15 (fifteen) years;
  - b. Narcotics Category II for oneself shall be sentenced to a maximum imprisonment of 12 (twelve) years; and
  - c. Narcotics Category III for oneself shall be sentenced to a maximum imprisonment of 10 (ten) years.
2. In deciding the case as referred to in paragraph (1), the judge is obliged to pay attention to the provisions as referred to in Article 116.
3. In the event that the abuser as referred to in paragraph (1) can be proven or proven to be a victim of narcotics abuse, the abuser is obliged to undergo medical rehabilitation and social rehabilitation.

Arief (2013) expressed the importance of using penal facilities in order to tackle crime, namely:

1. Criminal sanctions are very necessary, we cannot live, now or in the future without punishment;
2. Criminal sanctions are the best tools or means available, which we have to deal with crimes or major dangers and to deal with threats from harm;
3. Criminal sanctions are at one time the main/best guarantor and at one time the main threat to human freedom. He is a guarantor if used sparingly, carefully and humanely, he is a threat if used carelessly and by force.

Crime prevention policies by using penal means by some criminologists are also called repressive methods. Repressive measures are focused on eradicating/repressing/cracking after the crime has occurred, namely the imposition of criminal sanctions (Dirdjosisworo, 2013).

It can be concluded from the description above that the position of narcotics users as perpetrators and victims is very difficult to distinguish. However, they cannot be equated and efforts to overcome them must also be distinguished. Narcotics users who are initially guaranteed rehabilitation, based on Article 127 above, can be threatened with criminal penalties. In criminal law it is known that "there is no crime without a victim", so it can be said that they become victims because of the crimes they commit themselves.

The use of criminal law as a means of overcoming narcotics abuse will ultimately lead to the issue of how judges make decisions. The basis of the judge's consideration in imposing a crime will greatly determine whether a judge's decision is considered fair or determine whether his decision can be accounted for or not.

In the process of growing and developing every child will be involved in making mistakes, in dealing with these problems sometimes children can make deviations or even

violate the law. The limitations of children in understanding and knowing and protecting themselves from existing influences make the cause of deviations and violations of the law. Children do not have the maturity of the soul to be able to assume responsibility like an adult human, with this view it is necessary to have special treatment in dealing with children's cases.

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System provides a different color regarding legal protection for children in the Republic of Indonesia by giving birth to the concept of diversion which aims to provide protection for criminals, victims and the general public as a form of case settlement from the criminal justice process to an outside process. criminal justice.

As in Article 7 of the Juvenile Justice System Law, diversion must be sought at all levels of examination of perpetrators of child crimes who are threatened with imprisonment under 7 (seven) years and are not recidive. Then in article 3 of the Supreme Court Regulation Number 4 of 2014 concerning guidelines for the implementation of Diversion, judges are obliged to carry out diversion for children who are accused of committing a crime under 7 (seven) years and for threats of 7 (seven) years or more judges can indict subsidiary, alternative, cumulative or combined.

Article 127 paragraph (3) of Law Number 35 of 2009 concerning Narcotics formulates that in the event that the abuser as referred to in paragraph (1) can be proven or proven to be a victim of narcotics abuse, the abuser is obliged to undergo medical rehabilitation and social rehabilitation. Whereas what is meant by a victim of narcotics abuse is a person who accidentally uses narcotics because he is persuaded, tricked, deceived, forced, and/or threatened to use narcotics.

However, in several decisions regarding the crime of narcotics abuse with child defendants, it turns out that this is not carried out consistently as in the Nganjuk District Court Decision Number: 16/Pidsus.A/2017/Pn.Njk. In the decision, it was found that a child who was in conflict with the law named RATIH SIYAMITA was threatened with a criminal offense against Article 127 paragraph (1) letter 1 of Law no. 35 of 2009 concerning Narcotics with a maximum penalty of 4 years. The defendant Ratih Siyamita Binti Fajar Riyanto (late) on Monday, July 31, 2017 at around 08.30 WIB or at least at other times in 2017 at the house of Br. Amel (DPO) includes Babadan Hamlet, Gemenggeng Village, Kec. Bagor Kab. Nganjuk or at least in a place that is still included in the jurisdiction of the Nganjuk District Court which has the authority to examine and prosecute, "Narcotics abusers of Category I for themselves", at the time of their arrest the Defendant found evidence in the form of a suction device consisting of 1 (one) pipettes, 1 (one) bottle of fragrant tea, 2 (two) white straws, 1 (one) Tokai lighter, 1 (one) plastic clip; based on the results of the Defendant's urine test No.: R-36/VII/2017/Rumkit on Monday, July 31, 2017 which was signed by the examining doctor, namely dr. Dian Fitriana Dewi concluded that the Defendant's urine was negative for morphine, negative for cocaine, negative for marijuana, positive for amphetamine, negative for Benziodiazepine and positive for methamphetamine. In the decision there is no evidence of diversion, the judge's

consideration based on the community research report from BAPAS Kediri that the defendant was a street child who did not go to school and gathered in a punk group with promiscuity and illegal drugs, thus providing a recommendation that the child defendant was sentenced to the main crime, imprisonment.

Before the judge imposes a sentence on a child, first consider several things that are aggravating and lighten the sentence of a child, as follows: Aggravating circumstances for the defendant: the actions of the child defendant did not support the government's efforts to eradicate narcotics crimes and disturbed the community. While the mitigating circumstances are that the child has never been punished, regrets and promises not to repeat and is frank so as to facilitate the trial. The judge's decision in this case is to impose a prison sentence of 9 (nine) months in detention.

Then in the Brebes District Court Decision Number 4/Pid. Sus-Child/2015/PN. Brebes with a child defendant named IMAN SONJAYA Bin ENDANG SUTARYANI, having his/her address at Randusari Village, Kec. Losari Kab. Brebes. Whereas the defendant IMAN SONJAYA Bin ENDANG SUTARYANI at the time and place as described in the first indictment above "Without rights or against the law to plant, maintain, possess, store, control or provide Narcotics class I in the form of plants. The defendant's actions as regulated and subject to criminal penalties in Article 111 paragraph (1) UURI No. 35 of 2009 concerning Narcotics.

The consideration of the juvenile judge against the defendant is incriminating, namely: the child defendant is contrary to the government's program in eradicating the circulation and abuse of narcotics; The child defendant had previously consumed marijuana with his friends; while the mitigating factors were: The child defendant had never been sentenced to a criminal offense that had permanent legal force for committing a criminal act (first offender); - The child accused is still very young and has a long future; - The child defendant regretted his actions and promised not to do it again; - the child defendant frankly admitted his actions and behaved politely in court; - The evidence in the aquo case is relatively small. Meanwhile, the community advisor in the Community Research Report for the Children's Session No. Reg : BKA/0004/V/2015/BPS.Pkl dated May 06, 2015 has argued and recommended that if the defendant is proven guilty of committing a criminal act that he was charged with, the defendant should be punished.

Considering that the nature of the crime charged by the Public Prosecutor as referred to in Article 111 Paragraph (1) of Law no. 35 of 2009 concerning Narcotics is cumulative, namely imprisonment and fines, then the defendant will not only be sentenced to imprisonment but will also be sentenced to a fine, but because the defendant is a child, then in accordance with the provisions of Article 71 Paragraph (3) of the Law Regarding the Juvenile Criminal Justice System, the fine will be replaced with job training, the length of which will be determined in the decision. The judge's decision against the child defendant IMAN SONJAYA sentenced the defendant to a sentence of 2 (two) years in prison and 3 (three) months of job training.

As we know the National Narcotics Agency, the Police, the Prosecutor's Office, judges and other law enforcement officers, as well as elements of the community are also responsible for ensuring the prevention and control of drug abuse. This is a legal obligation, including in this case the Narcotics Law. Prevention of drug abuse must be carried out as early as possible with planned actions, including primary prevention, secondary prevention, and tertiary prevention, as follows (Apandi, 2012):

1. Primary Prevention

Is prevention aimed at individuals, groups or the wider community who have not been exposed to cases of drug abuse. Prevention is provided by providing information and education including alternative activities so that they avoid drug abuse and strengthen their ability to refuse.

2. Secondary Prevention

Prevention is aimed at individuals, groups or the wider community who are vulnerable to or show more cases of drug abuse. This prevention is carried out through education, counseling, and training so that they stop, then carry out positive activities and keep them prioritized on health.

3. Tertiary Prevention

Is prevention aimed at those who are already users or who have suffered from addiction. Prevention can be done through medical services, rehabilitation, and keeping them from relapse and addiction.

### **Protection of Children in Narcotics Abuse Viewed from Victimological Aspects**

Age restrictions for children who commit crimes or are in conflict with the law are based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, namely in Article 1 number 4 where it is stated that children who are victims of criminal acts, hereinafter referred to as Child Victims are children who have not 18 (eighteen) years of age who suffers from physical, mental, and/or economic loss caused by a criminal act. A child is a person in the case that the child has reached the age of 8 (eight) years but has not reached the age of 18 (eighteen) years and has never been married. However, in line with legal developments in Indonesia, the Constitutional Court (MK) conducted a Judicial Review of Article 1 number 4 of the Child Criminal Justice System Law where the Constitutional Court changed the sound of the article to "Children are people in cases of naughty children who have reached the age of 12 (twelve years). ) years but has not reached the age of 18 (eighteen) years and has never been married. Children really need to be protected from various forms of crime that can affect their physical, mental and spiritual development. Therefore, it is necessary to have regulations that can protect children from various forms of crime.

The law must always be enforced in order to achieve the ideals and goals of the Indonesian state which have been stated in the opening of the fourth paragraph of the 1945 Constitution of the Republic of Indonesia, namely to establish an Indonesian state

government that protects the entire Indonesian nation and the entire homeland of Indonesia and to promote public welfare. educating the nation's life and participating in carrying out world order based on freedom, eternal peace and social justice. One of the areas of law that must be enforced is the field of criminal law. This is because the existence of criminal law is still recognized as a means to overcome or prevent crime, especially narcotics and illegal drugs, which are mostly committed by children under the age of 21 (twenty-one) years.

Problems that arise when viewed from a legal perspective, namely the occurrence of crimes and violations cannot be separated between the perpetrator, the act, the punishment and the victim. In the case of the offender, criminal law is more likely to address the nature of the offender's crime, whether he or she can be held criminally responsible, and whether there is a justification or reason for the crime. Then the question of action is a matter of knowing whether the act is against the law (criminal act). Moreover, the issue of sanctions will focus more on the criminal law system. Finally, the issue of victims is often neglected in criminal cases, even though the victim is the party most entitled to be considered. When talking about victims of crime, our perspective cannot be separated from victimology. Through victimization, various aspects related to victims can be known, namely the factors that cause crime, how a person can become a victim, efforts to reduce the occurrence of crime victims, rights and obligations of crime victims (Arief, 2013).

Evil is the result of the interaction between the phenomena of existence and influence. In general, a victim-criminal relationship is a relationship that is victimized as a result of the crime. One party becomes a victim because the other party commits a crime. The most important thing that must be agreed in this relationship is that the victim is the party who is harmed and the perpetrator is the party who benefits or is harmed. If we want to find appropriate crime prevention efforts, our perspective should not only focus on issues related to the factors that cause crime or the most appropriate methods to use in crime. The most important thing that should not be ignored is the problem of the victims of crime themselves, who under certain circumstances can lead to crimes or even become perpetrators of crimes. On the one hand, children who use narcotics are perpetrators of narcotics crimes regulated in the Narcotics Law, but on the other hand they are also victims of crimes they commit themselves.

The study of victims is studied with its own science, namely victimology and in that victimology there are various studies on victims, including the role of victims in a crime, especially Narcotics. Von Hentig thinks that the role of the victim in causing a crime as follows (Waluyo, 2013):

1. The crime was indeed desired by the victim to occur;
2. Losses due to crime may be used by the victim to obtain greater profits;
3. The result that harms the victim may be cooperation between the perpetrator and the victim;
4. Losses due to crime actually do not occur if there is no provocation from the victim.

It is different with Sahetapy's opinion. Sahetapy sees the relationship between crime and victims differently. Sahetapy offers a term "victimity" derived from the word "victimity", where he wants to limit the relationship between the victim's problem and the crime factor. "So if we move from the starting point of victimhood, then by itself the problem of victims does not need to always be associated with the crime factor" (Waluyo, 2013). Meanwhile, Gosita (Waluyo, 2013) defines victims in various dimensions, including:

1. Victims due to human actions, victims due to human actions can lead to criminal acts, for example: victims of narcotics crimes, victims of rape crimes, victims of political crimes, and non-criminal acts (civil acts) such as victims in the administrative field, and so on;
2. Victims outside of human actions, victims of consequences outside of human actions such as natural disasters and so on.

Muladi (2011) has another opinion regarding this definition. According to him, a victim is someone who has suffered a loss as a result of a crime or his sense of justice has been directly disturbed as a result of his experience as the target of a crime. In this case, Muladi saw the creation of victims directly from a crime. Meanwhile, Mulyana argues that there are 2 (two) categories of victims, namely direct victims and indirect victims. Muladi in another article also describes from the point of view of criminal law, criminology and victimology, an approach that is oriented to the relationship between the perpetrator and the victim (offender-victim-oriented) to be able to identify victims in the following categories (Prasetyo, 2013):

1. Victims immediately (unrelated victims), because of fate;
2. Victims who also provoked (provocated victim);
3. Victims who encourage, without having to provoke (precipative victim);
4. Victims are physically weak (biologically week victim), such as children, women, people with disabilities;
5. Socially week victims, for example immigrant groups, minorities;
6. Political victims (political victims);
7. Latent victims, namely those who have behavioral characters who are always victims (victim nato).

Frank R. Prassel stated that the victim is a forgotten figure in the study of crime. The victims of narcotics crimes, victims of violence, robbery, theft and other acts have been ignored by the police, courts and academics who only concentrate on studying criminals (Prassel, 2014). In the case of child victims, the protection provided by the government to children in an emergency situation is special protection as regulated in Article 59 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection as follows:

1. The Government, Regional Government, and other state institutions are obliged and responsible to provide Special Protection to Children.
2. Special Protection for Children as referred to in paragraph (1) is given to:
  - a. Children in emergency situations;

- b. Children in conflict with the law;
- c. Children from minority and isolated groups;
- d. Economically and/or sexually exploited children;
- e. Children who are victims of abuse of narcotics, alcohol, psychotropic substances, and other addictive substances;
- f. Children who are victims of pornography;
- g. Children with HIV/AIDS;
- h. Child victims of kidnapping, sale, and/or trafficking;
- i. Child victims of physical and/or psychological violence;
- j. Child victims of sexual crimes;
- k. Child victims of terrorist networks;
- l. Children with Disabilities;
- m. Child victims of abuse and neglect;
- n. Children with deviant social behavior;
- o. Children who are victims of stigmatization from labeling are related to the condition of their parents.

Article 59A of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection as follow:

Special Protection for Children as referred to in Article 59 paragraph (1) is carried out through efforts:

- a. Prompt treatment, including treatment and/or rehabilitation physically, psychologically, and socially, as well as prevention of disease and other health problems;
- b. Psychosocial assistance during treatment until recovery;
- c. Providing social assistance for children who come from underprivileged families;
- d. Providing protection and assistance in every judicial process.

So it can be concluded that even though a child who abuses narcotics commits a crime of narcotics and illegal drugs, the child must still be protected and rehabilitated by the National Narcotics Agency.

### **Government efforts in overcoming drug use among the youth generation**

Overcoming and preventing drug abuse is the responsibility of the entire Indonesian nation, not just the police or the government. However, all sectors of society are expected to play a role in this effort. At least that is what is mandated in various state laws, including Law no. 22 of 1997 on narcotics. And in the next section, I will mention several parties who can play an active role in this effort: *first*, the POLRI. Based on the law, the Indonesian National Police (POLRI) is the party authorized to enforce the law, protect and serve the community along with other components of the nation. The police are fully responsible for preventing and overcoming the problem of drug abuse in Indonesia.

The West Java regional police as part of the extended family of the Indonesian National Police Corps, in this context, are also obliged to carry out this mandate.

Therefore, the regional police stand at the forefront of efforts to tackle drug abuse in this region. For this reason, it seems that 4 strategic steps need to be taken in the context of the prevention:

1. Pre-emptive. Pre-emptive efforts are carried out in the form of educative activities (education/teaching) with the aim of influencing the motivating factors and opportunity factors, which are commonly referred to as "correlative criminogen" factors of narcotics crime, so as to create awareness, vigilance, power deterrence, as well as fostered and created conditions of behavior/norms of drug-free life. Namely with a firm attitude to reject the crime of drugs. This activity is basically in the form of fostering and developing a simple lifestyle environment and positive activities, especially for teenagers with productive, constructive, and creative activities. Meanwhile, preventive educative activities are carried out using educative information communication methods, which are carried out through various channels, including family, education, religious institutions, and community organizations.
2. Preventive. This effort is carried out to prevent the occurrence of drug crimes through control and supervision of official channels as well as direct supervision of illicit traffic lanes with the aim that police hazard does not develop into a factual threat.

*Second*, the role of parents. It should be understood that the drug problem is one of the country's problems with the complexity of problems that can threaten the national security of the state, the state and can affect the development process, so efforts to overcome the threat of danger of drugs require efforts from the government and elements of the community as observed in article 57 of Law no. 22 of 1997 concerning Narcotics and Article 54 of Law no. 5 of 1997 on Psychotherapy.

Parents as part of society have a very large role in supporting national development, including a role in efforts to eradicate threats to the youth generation from the dangers of drugs. Therefore, proactive steps can be taken through (1) the family environment, (2) the living environment, and (3) the work environment. However, these strategic steps are a form of collective concern for efforts to overcome drug abuse that must be carried out for the safety and existence of the nation to welcome a brighter future.

A person's deviant behavior is closely related to external factors such as the social environment in which he develops. In many cases of drug users, they become users because of their close family environment with drugs, for example one or both parents, or even friends, use drugs. This condition indirectly activates him, so he becomes an active user.

The lack of parental attention to their children causes the maximum educational process in the family to be hampered. This is one of the barriers to the intensity of communication between them and creates a large gap between the expectations of parents and the behavior of their children. Informal parenting in the home environment determines the direction and degree of success of children. Regular parental involvement is very important in creating a strong mental role model for children.



The high number of drug users among young people is caused by their lack of knowledge about drugs. This is triggered by the absence of knowledge transition from family to child. Therefore, drug education is an effort to prevent the youth generation from being exposed to drug use. Health promotion efforts, especially among adolescents, need to be encouraged, in an effort to reduce side effects and deaths from drug abuse. Drug education must be able to change the variety of knowledge, attitudes and behavior of the youth generation so that they no longer use drugs.

The drug problem is very complex. Therefore, the role of various parties is highly expected in the fight against drug abuse, especially among the youth generation. The process of inspiring the youth generation to always be productive and not use drugs is indeed not easy, but if it is carried out continuously it will create a weak, less creative generation, which will have an impact on stunted growth in various areas of life. The presence of the young generation on the front line in overcoming drug consumption is a form of seriousness that they are ready to appear as icons of change from the negative image that has been directed at them to become a more productive group and dare to say "Say No To Drugs". In addition, this is a concern of the youth generation towards the condition of the nation in the midst of drug trafficking.

The success of the youth generation against drugs will be easier if it is well organized. Therefore, the first step that must be taken is to form an organization, then maximize the function of local youth organizations in drug prevention programs. The existence of youth organizations initiated by the youth generation greatly facilitates awareness of the target of drug abusers among teenagers, because with these groups, prospective cadres will be created who can support youth groups, namely Peer Educators who are still actively using drugs.

The existence of youth organizations is not only a symbol of concern, but also can give its own color and is always unique to the community. Achieving this goal is highly dependent on the level of understanding of the youth generation about drugs. Therefore, drug education to the youth generation cannot be delayed any longer. According to the expert staff of the National Narcotics Agency (BNN), the key to an effective prevention program is integrated prevention through the participation of various factors from the community. One of the strategies to achieve this goal is to increase public awareness and knowledge of the dangers of drugs, such as families, parents, and community leaders, religious leaders, teachers, teenagers, mass organizations, NGOs, in accordance with their respective roles in preventing drug abuse and trafficking.

Prevention of drug abuse must be carried out as soon as possible with anticipatory actions, including primary prevention, secondary prevention, and tertiary prevention, such as the following (Apandi, 2012):

1. Primary Prevention: prevention aimed at individuals, groups or the wider community who have not been exposed to cases of drug abuse. Prevention is provided by providing information and education including alternative activities so that they avoid drug abuse and strengthen their ability to refuse.

2. Secondary prevention: prevention aimed at individuals, groups or the wider community who are vulnerable to or show more cases of drug abuse. This prevention is carried out through education, counseling, and training so that they stop, then carry out positive activities and keep them prioritized on health.
3. Tertiary prevention: prevention aimed at those who are already users or who have suffered from addiction. Prevention can be done through medical services, rehabilitation, and keeping them from relapse and withdrawal.

So that, the three preventive actions each have specific goals, objectives, targets and methods, and their implementation can be adapted to existing and ongoing situations and conditions. Do not rule out many things other than these theories and concepts. From there, we can apply various other techniques and strategies that are considered more effective in preventing drug trafficking and abuse. Of course, it cannot be separated from the existing rules and is based on the characteristics of users, individuals and groups that occur in the field (Apandi, 2012).

To create a drug-free community and school environment, there are at least 3 elements that are directly related and interrelated with each other, namely school students consisting of elements of leadership, teachers, school officers (administrative officers, security, cleanliness, canteen manager, and so on) and parents. They should immediately work together to prevent abuse and illicit drug trafficking in the school environment (Apandi, 2012).

## **Conclusion**

1. Drug abuse is someone who uses narcotics without rights or against the law. Children who abuse narcotics are both perpetrators and victims. In order to protect legal order, if a child commits an act that violates the law in the form of narcotics abuse, he must still follow the case settlement process as regulated in the Child Criminal Justice System Act. to prevent children from the negative stigma of justice. In this study, IMAN SONJAYA and RATIH SIYAMITA were children who were perpetrators of criminal acts of abuse, but between them received a different determination / decision. This is because there are differences in interpretation or interpretation in the Juvenile Criminal Justice System Act, Perma Number 4/2014 which raises a debate about which regulations will be used so that it is found in the same crime that some use diversion and some do not. In addition, judges have the freedom to decide a case where there is no obligation to follow the previous decision, each judge has confidence and independence in deciding a case.
2. According to Victimology, children who are victims of drug abuse are classified as self-victimizing victims, namely those who become victims because of crimes they have committed themselves so that on the one hand, the child concerned is the perpetrator of a narcotic crime as regulated in Law Number 39 of 2009 on Narcotics, but on the other hand he is also a victim of a crime he committed himself.

3. Efforts to prevent and eradicate drug abuse and illicit trafficking among the youth generation need to be comprehensive and multidimensional. trying to eliminate the view that the problem of drug abuse and illicit trafficking is not only a government problem, but is a problem that must be tackled together. Prevention and eradication of drug abuse and illicit trafficking is carried out by building community-based prevention efforts, including through school and out-of-school education. Social media, both electronic and print, including advances in internet technology and communication tools, which need to be utilized to the maximum extent possible in providing information to the public at large.

## References

- Adi, Kusno. (2014). *Kebijakan Kriminal Dalam Penanggulangan Tindak Pidana Narkotika Oleh Anak*. Malang: UMM Press.
- Apandi, Yusuf. (2012). *Katakan Tidak Pada Narkoba*. Bandung: Simbiosis Rekatama Mebia.
- Arief, Dikdik M. dan Elisatris Gultom. (2013). *Urgensi Perlindungan Korban Kejahatan*. Jakarta: PT. Raja Grafindo Persada.
- Dirdjosoworo, Soedjono. (2013). *Pathologi Sosial*. Bandung: Alumni.
- (2013). *Ruang Lingkup Kriminologi*. Bandung: Remaja Karya.
- Kaligis, O.C. & Associates. (2012). *Narkoba dan Peradilannya di Indonesia, Reformasi Hukum Pidana Melalui Perundangan dan Peradilan*. Bandung: Alumni.
- Muladi. (2011). Perlindungan Korban Melalui Proses Pemidanaan. *Paper presented at the Victimological Seminar at Universitas Airlangga, Surabaya, 28-29 Oktober 2011*.
- Muladi dan Barda Nawawi Arief. (2013). *Teori-Teori dan Kebijakan Pidana*. Bandung: Alumni.
- Prasetyo, Eko dan Suparman Marzuki (ed). (2013). *Perempuan dalam Wacana Perkosaan*. Yogyakarta: PKBI.
- Prassel, Frank R. (2014). *Criminal Law, Justice, and Society*. California: Goodyear Publishing Company Inc.
- Purwosutjipto, H.M.N. (2015). *Pengertian Pokok Hukum Dagang Indonesia*. Jakarta: Djambatan.
- Sasangka, Hari. (2011). *Narkotika dan Psikotropika Dalam Hukum Pidana*. Bandung: Mandar Maju.
- Sonarso, Siswanto. (2014). *Penegakan Hukum Dalam Kajian Sosiologis*. Jakarta: Raja Grafindo Persada.
- Sujono, A.R. dan Bony Daniel. (2012). *Komentar dan pembahasan Undang-Undang No. 35 Tahun 2009*. Bandung: Alumni.
- Waluyo, Bambang. (2013). *Viktinologi Perlindungan Hukum Terhadap Korban Kejahatan*. Jakarta: Sinar Grafika.