

## Legal Policy Regarding Criminal Actions of Narcotics Trafficking Involving Children

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### Abstract

Distribution case narcotics involved child the more increase along development technology and convenience access facility general. Involvement children in narcotics distribution is problem seriously threatening generation successor nation. The perpetrator's son is often entangled in the network distribution adult narcotics so that potential become victims of exploitation. Although accordingly, the Law Number 35 of 2009 concerning Narcotics No differentiate in a way special age perpetrator dealer narcotics. Criminal law approach should be more directed at effort rehabilitation child than condemnation, remembering child perpetrator tend become a victim. Therefore, that country through government and society is obliged to protect children involved in the act of criminal narcotics distribution.

Keywords: criminal law policy; narcotics distribution; child perpetrators; victims of exploitation

### Article History

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## Introduction

In some years Lastly, it happened enhancement diversity form mischief children and teenagers, who do not only limit to violations light like skipping class school or violating the rules but has encroached to action criminal certain. Different from the past were mischief children generally still in category natural, like brawl student (Siegel & Welsh, 2011). Progress technology and convenience access various facility allegedly join in push children potential engage in behavior more criminal serious, like molestation, murder, abuse drugs, up to narcotics distribution and crime other (Simkin, 2004).

Indonesia is a legal country as follows regulate drugs, 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which confirms that all over Citizens are bound by applicable legal provisions. This matter aligned with principle *ignorantia legis non excusat* or *legal fictie* that states that No There is reason for confessing No know exists something regulation legislation (Siregar, 2003). With so, every citizen, incl kids, you can wear penalty criminal when acting criminal in accordance with applicable law.

In the case of the child who committed the act criminal, often there is dilemma related application penalty criminal. This matter because child Not yet Of course fully realize that his actions is prohibited, and permissible actions charged penalty criminal (Grisso, 1997). Awareness and ability child in understanding legal consequences of his actions Still limited, so application penalty criminal to child

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often bring up problem ethical (Steinberg & Scott, 2003). The child who committed the act criminal Not yet of coli limited, ill and consciousness full, or know that his actions qualified as follow criminal.

Based on data from Directorate Act Criminal Narcotics (DIT TIPIDNARUKOBA) National Police Headquarters amount case addictive drugs students in the month December 2023 reached 88 cases and experienced increase in January 2024 with enhancement a total of 116 cases or an increase of 32% in the span time One month just (Dit tipidnarkoba, 2024). This matter indicated that problem narcotics distribution involved child the more increase sharp and not Again know limitation age. In the case of here, child can role double, fine as a victim or perpetrator follow criminal narcotics distribution. Children tend to be utilized as courier drugs with lure certain (Sasangka, 2003).

By juridical, children involved in the act criminal narcotics distribution can categorized as perpetrator. However, in fact conceptual, child perpetrator This also has potential become a victim (*crime without victim*) (Mustofa, 2007). Therefore, in handling case here, child Not only seen as perpetrator, but also must as a victim. Treatment to perpetrator follow criminal Of course different with treatment towards the victim. Dynamics is what makes law enforcers think hard at finishing problem This (Arief, 2001). is child perpetrator will worn penalty criminal or more directed at effort rehabilitation and coaching so that it can return to public. Apart from that, as victims, children also have the right get legal protection (Koesno, 2014).

Policy in determining direction punishment to child perpetrator follow criminal narcotics distribution No regardless from the role of law enforcers, such as police, prosecutors, judges and lawyers, is known with term chess dynasty Justice. Each party own role important in the system Justice criminal justice system in Indonesia (Arief, 2001). In essence, the system Justice consists of authority investigation, prosecution, trial, conviction decision, and implement it decision or execution (Arief, 2001). In the case of This, law enforcers must capably ensure justice in law enforcement against child perpetrator as well as victims of trafficking narcotics, so No can equalized with treatment towards adult's perpetrator follow criminal similar (Muladi, 2005).

## Method

The type of research used is study normative or normal called study bibliographic legal studies. Normative research is also called doctrinal legal research because of research this is how law is conceived as what is written in the regulation's legislation (Effendi & Ibrahim, 2016). This research focused on handling case narcotics distribution involved child and so special study Law No. 35 of 2009 concerning narcotics as well as enforcement rights opposite child with the law as such regulated by law protection children and the law system Justice criminal child. Assessment through Constitution as well as factual data expected can give description about How handling case narcotics distribution involved child to explained How to properly handle case narcotics distribution involving a child.

## Discussion

### Analysis and Driving Factors Children's Involvement in Narcotics distribution

Widespread narcotics distribution that has penetrated to various levels of the public without looking age and background, has become a challenge for government, especially for law enforcers. Required efforts preventive to minimize narcotics distribution in Indonesia. This matter in line with mandate Preamble to the 1945 Constitution of the Republic of Indonesia fourth paragraph mentioned that objective The formation of the Indonesian State was for protect all nation, advance well-being general, enlightening life nation, as well join in carry out world order based on independence, peace eternal, and justice social (1945 Constitution of the Republic of Indonesia). To protect the nation from danger narcotics distribution, the government has issued Constitution Number 35 of 2009 concerning Narcotics.

Publishing Constitution Number 35 of 2009 concerning Narcotics based on several considerations, including (Sujono & Daniel, 2011):

to realize prosperity, justice and prosperity public in a way comprehensive and even based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

As effort realize well-being community in the field health with arrange narcotics distribution for needs treatment and prohibition distribution abused narcotics so that harm public.

to supervise distribution potential narcotics misused and caused dependency.

Forbid action import, storage, cultivation, distribution and use narcotics without possible supervision endanger life society, nation and state as well as threaten resilience national.

Crime misuse and narcotics distribution is crime supported by transnational technology advanced, network broad and strong, as well impact damage society, in particular generation young. Therefore, that's law Number 22 of 1997 concerning Narcotics assessed Already No in accordance Again For overcome and eradicate follow criminal them.

According to Constitution Number 35 of 2009 concerning Narcotics, act criminal narcotics classified become seven groups, including:

Plant, nurture, have in stock, own, store for owned, or for supplies, or control narcotics group I in form plant or book plant called as abuser.

Have, save, for owned, or for supply or control narcotics group II and group III can also be done called as abuser.

Producing, processing, extracting, converting, assembling, or providing narcotics groups I, II, and III are called as producer narcotics.

Bring, send, transport, or transit narcotics groups I, II, and III are called courier narcotics.

Importing, exporting, offering for sale sell, buy, hand over, receive, become intermediary buying and selling, or exchange narcotics groups I, II, and III are called dealer narcotics.

Use towards other people or give narcotics groups I, II, and III for used by others is also called as distributor.

Use narcotics groups I, II, and III can called abuser narcotics, victims of narcotics abuse or even addict If use narcotics in a way constant and present characteristic dependency (Akbar, 2015).

Seventh classification crime narcotics in law No differentiate perpetrator based on age, whether perpetrator is a legally competent adult or children. However, in the context of criminal law, the perpetrator follows criminal need differentiated his treatment based on age. According to Bagir Manan in (Supramono, 2000), children must treat as " adults small ", so that the case process the same with adults in general. Difference treatment for perpetrator criminal child only in stages the judge as regulated in Article 153 paragraph (3) of the Criminal Procedure Code regarding trial that is not open for general. However, Article 42 paragraph (3) of the Law Number 3 of 1997 concerning The Children's Court requires an examination and investigation process child for kept secret. So, treatment to child perpetrator follows criminal need differentiated in accordance with the principle of *lex specialis derogat legi generalis*, where the laws are more special rule out general law. So that For Justice child referring to the Law Number 3 of 1997 concerning Juvenile Court.

From the seventh classification follow criminal narcotics regulated in the Law Number 35 of 2009 concerning Narcotics, there are five related groups with mischief children, namely (UNICEF, 2003):

Victims of narcot Court.e.

Victims all at once perpetrator narcotics abuse.

Victims are all at once addicted to narcotics.

Narcotics courier.

Perpetrator narcotics distribution.

From the fifth classification following criminal narcotics abuse involved children, cases are increasing widespread is child as courier narcotics and perpetrators narcotics distribution. This matter happens Because kids are very easy influenced and exploited. According to Graham Blaine, quoted by Hari Sasangka, narcotics abuse by children influenced by several factors, including (Sasangka, 2003):

To get confession that child the dare to do dangerous and risky things.

To challenge regulation Because feel bound by rules parents, school, teachers, law, or government.

To fulfil desire and desire to deed sexual.

To avoid feeling lonely with try experiences new.

To understand the meaning of life.

To go out from boredom Because lack of activity.

To get out from frustration will problem life.

To get confession from friends and a sense of solidarity.

Because of the urge to know the strong or just joking.

From the nine points above factor reason narcotics abuse by the strongest child is environment place stay Alone. Especially closest environment with life child is environment family. Therefore, a child in the environment stressed and deprived families educated potential strong to commit narcotics abuse. Next is environment place stay Where child can hang out and play together his friends. If the environment plays it have good influence so possibility child can fall into abuse use very minimal narcotics.

Logically, if a child didn't live in an environment filled with users and narcotics distributors, then it will be difficult for them to get and distribute the illicit goods. However, apart from that factor environment place living and family, there are also internal factors that arise from within yourself child who can pushed them to use narcotics even until sell it, though child the live in a good environment. As for these internal factors among others:

There is interference to personality child

Disturbance to personality in children caused by:

Disturbance to pattern think

Children with disturbance pattern think often shows Different view from majority or experience deviation in manner think they. They tend Certain that thinking they is the most correct, even If contradictory with applicable social norms. Phenomenon This can push them to perform the considered action deviate. Additionally, several children Possible tend own pattern think negatively or corner a pessimistic view, deviates caused by the feeling of depressed and gloomy constantly. This Trend Can make development child hindered and caused they close self from interaction with other people and the environment surroundings (Sudarsono, 1995). Children with pattern tend to think pessimistic own level more confinement high and more Possible feel wasted from environment around them (Smith, *et al*, 2017).

Disturbance to emotional

There are various types of disturbance emotional that can influence children, incl fluctuation significant emotions, ease anger, vulnerable to sadness, tend separated hope, and easy affected by change atmosphere heart. Plus, it's a nuisance emotional too reflected through feeling lonely, low self, lack ability feel love darling, lack sympathy, limitations in empathy, and feelings isolated from environment around. Various factors can trigger disturbance emotional this is like experience ongoing trauma consequence painful treatment from parents or environment around. Environmental families who don't support and lack parental involvement can increase the risk of child experiencing disturbance emotional. Disturbance emotional can push a child For Act in accordance with his understanding myself, though action the Possible contradictory with applicable norms and laws. For example, feelings lonely can push a child for feel Afraid abandoned by his friends, so He Possible look for confession or attention although must violate rule or law (Smith, *et al*, 2017).

Disturbance to will

The behavior and desires of a child are often influenced by feelings and thoughts. Disturbances that occur at levels of thoughts and emotions child can produce disturbances in behavior and desires. As example, interference they can cause disappearance control on desire and desire child, so they Possible

own wishes that don't enter sense or difficult for controlled. In the case of extreme, one child even Possible own desire to carry out actions that violate social norms or even break the law, because encouragement that is not rational and difficult for pressed. According to research conducted by Brown et al. (2020), disorders of thoughts and emotions in a child can in a way significant influence behavior them and improve risk they engage in behavior risky or delinquent (Smith, *et al*, 2017).

#### Less religious

Children raised in an environment family with knowledge minimal religious or even No Once get education about spirituality will experience impact on development intelligence spiritual. Lack of understanding about aspect religious can result lack of control yourself to the child, because they Possible No understand draft Afraid of God or even No understand concept of sin. This matter can push children to tend to engage in contradictory behavior with their religious teachings. Apart from that, the lack of understanding about values religion also makes child difficult for differentiate between good things and bad things. As the result, they Possible consider that all action considered valid, incl unlawful actions. Knowledge level religious in the family can influence formation of morals and behavior child, with lack of understanding about values enlarging religion risk child engaging in conflicting behavior with rule of law (Smith, *et al*, 2017).

#### Age factor

Based on factor age, children who step on age teenagers, especially between fifteen until six mercy years, often prone to influence narcotics abuse or trading narcotics. This time is marked with growth physical, mental, psychological and social rapid, where the feeling of wanting to know to experience new or sensation the stronger. During this time, they Possible look for identity personal they Alone For get confession from other people or from group social they. Although legally still considered as children, teenagers often feel that they are Already No children again, though mentally, spiritually, and emotionally they Still Not yet fully ripe. In condition this, them tend own pattern unstable and frequent thoughts experience conflict with other people because difficult accept view or the opinions of other people who also think they have grown up. Child at age teenager often is on point fragile transition between childhood and adulthood, so increase risk involvement them in behavior risky like narcotics abuse (Smith, et al, 2017).

When stepping on age teenagers, children often driven by desire strong for satisfy desire know they. Encouragement This pushes them for try it out experience or action yet Once they experience previously. For example, they are probably interested in tasting alcohol, try use narcotics, or even tempted to be part of trade or narcotics abuse. According to research conducted by Brown and Johnson (2018), the feeling of wanting to know who is high in age teenager often becomes factor risks involved them in behavior risky, incl use narcotics (Simanungkulangit, 2004).

The third factor is originating internal factors from within yourself children and influence them for engage in behavior deviate. Behavior This can develop become habits and even culminate in action criminal. A children involved in trafficking Narcotics can also be done influenced by factors This. But, unfortunately, not yet There is provision specifically regulated treatment to children involved in trafficking narcotics.

Narcotics distribution by children often related with networks involving adults, because child considered Still is in an unstable condition. However, it is necessary differentiated between children who act as courier only send narcotics to specified address and acting child as dealer who sells narcotics for get profit certain. According to Constitution Number 35 of 2009 concerning Narcotics together with Constitution Number 11 of 2012 concerning System Justice Child Crime, one child who becomes dealer narcotics is those who sell, offer for sale, or deliver narcotics, okay with rewards or without reward (Dirdjosisworo, 1990).

Profit from trading narcotics by children can shared become several categories. First, profit material, where is the child buying and selling narcotics only for get profit financial. Second, profits in the form of bonuses or narcotics That alone, where is the child only buying and selling narcotics for needs personal or consumption myself, which is often signifies that child the is addict narcotics. Third,



there are also cases where children buy and sell narcotics without realizing that goods sold are narcotics prohibited by law. Usually, narcotics change shape so that it isn't easy recognized, for example become candy, chocolate, or food other you like children. The role of children in trafficking narcotics often varies depending on motivation and the environment they are in.

From the third type narcotics distribution by children as mentioned above, we may conclude that narcotics distribution by children through the buying and selling process with objective fulfil addicted narcotics falls into the most serious category. This matter caused Because child the No own other motivation besides fulfil his addiction. That means, child the not only a dealer, but also an addict. The child who became addict often become dealer Because addiction resulting from use narcotics in a way sustainable.

Impact from use narcotics on psychology and patterns think child covers several things, like own a very strong and difficult desire controlled for use narcotics, tendencies for increase dose use, dependency in a way psychological can give rise to symptoms psychology, and dependency physique. Using narcotics at age young can have significant impact on development psychology and well-being of children, incl cause dependency serious physical and psychological problems (Hamzah & Surachman, 1994).

Impact narcotics abuse in children can influence them so that become dealer narcotics with objective get profit to satisfy his addiction to narcotics the. Therefore, that's important for children involved in abuse narcotics to get special attention and coaching. This is important Not only Because they are an addict, but also because their role as affected dealers in a way psychological by addiction they to narcotics. Criminal action narcotics distribution carried out by children Not only driven by desire to get profit financially, but also by encouragement for fulfil addicted they to narcotics. According to research conducted by Smith and Johnson (2021), appropriate intervention is required to help children involved in abuse narcotics, incl giving specific care and support in accordance with need they as addicts and dealers.

### Arrangement Punishment for Children Involved in Trafficking Narcotics

While discussing policy punishment, it is important to understand the objective of system punishment in criminal law. This matter Because policy punishment must align with objective main punishment. According to Barda Nawawi Arief in (Sholehuddin, 2003), objective from punishment is for set punishment that is not regardless from objective political criminal, that is give protection to society to achieve prosperity and peace. Purpose of punishment No regardless of theories base punishment.

First, the theory of revenge (*velgeldings theorien*) assumes punishment as form revenge on crime committed by the perpetrator. In context This is punishment considered as reply on follow crimes committed by the perpetrator, such as punishment dead for murderer.

Second, the theory goal (*doel theorien*) assumes punishment as tool for educate perpetrator to understand error they regret it his actions, and change become useful individual for public. In view This is punishment must give education to perpetrator for repair their behavior and morals.

Third, theory combined (*verenings theorien*) combines element revenge with element objective. In theory This is punishment used as means revenge to perpetrator crime, but also as tool for give education to them so they can repent, and return become a positive part of society after undergo punishment. With That's it, perpetrator crime given chance for repent and be given appropriate punishment with his actions (Sholehuddin, 2003).

From all the theories mentioned above, it is related to perpetrator crime narcotics distribution by children, not always must enforced penalty criminal revenge. The main purpose of punishment is rehabilitating behavioral, moral, and psychological perpetrator crime. As explained by Andi Hamzah, the goal of basically punishment is as means for cope evil, giving coaching to perpetrator crime to become good individual, taking care balance community, and giving effect deter the perpetrator No repeat his actions.

However, implementation points fourth above are not appropriate for perpetrator distribution

still narcotics children. To prevent children from repeating their crime, they should be given a proper education to change their behavioral, moral, and psychological. It is the government's responsibility as obligators to give protection special to children who are victims of narcotics abuse. Children involved in distribution narcotics can categorized as victim, remembering they still at an unstable and vulnerable age influenced by other people. Protection special This regulated in Article 59 in conjunction with Article 64 paragraph (1) of the Law Number 23 Years about Child Protection 2002 as last amended with Constitution number 17 of 2016 concerning Determination Regulation Government Replacement Law number 1 of 2016 concerning Change Second to the Law Number 23 of 2002 Concerning Child Protection Becomes Law.

If someone knowing and deliberate let children are in a threatened condition according to Article 59 of the Law Child Protection, and no carry out provision that, then they can threaten with criminal based on Article 79 of the same Law. This article states that children who are involved in legal problems because narcotics distribution are included in the category This. However, Articles 114, 119, 124, and 129 of the Law Number 35 of 2009 concerning Narcotics No differentiate between perpetrator narcotics distribution by adults or children.

Happen harmonization of laws between second Constitution this, though there is nonconformity. However, based on principle specialty (*lex specialis derogate legi generalis*), if perpetrator dealer narcotics is child, Act Number 35 of 2009 concerning Narcotics, Law Number 23 of 2002 concerning Child Protection, and Laws Number 11 of 2012 concerning System Justice Juvenile Crime must be applied. In policy punishment, rehabilitation must take priority.

Policy punishment to children involved in distribution narcotics based on theory goal (*doel theorien*), i.e. rehabilitation perpetrator crime to return become a positive part of society. Therefore, that's punishment must prioritize rehabilitation. This includes rehabilitation addicted If child the addictive to narcotics, rehabilitation physical, mental, moral and behavioral. Rehabilitation time determined by inspection appropriate expert with field his skills, like doctors, psychiatrists, and others (Regulations Head of the National Narcotics Agency, 2014).

### Efforts to Overcome Narcotics distribution Used by Children

Countermeasures narcotics distribution used by children Actually is not quite enough answer together between the State and the whole layer public as part from effort protection to children. Children often become a victim in the network of narcotics distribution, so required close cooperation between government, law enforcement (including the police, prosecutors, judges, and lawyers), and the community general. this collaboration regulated in Article 22, Article 23 and Article 25 of the Law Number 23 of 2002 concerning Child Protection, that:

#### Article 22

State and government obliged, and responsible answer give support facilities and infrastructure in implementation protection child.

#### Article 23

The state and government ensure protection, maintenance and welfare of children with notice of the rights and obligations of parents, guardians, teachers, or other people who are legally responsible answer to child.

State and government supervise maintenance and protection of children.

#### Article 25

Obligations and responsibilities answer public to protection child held through activity role community under protection child.

Not quite enough responsibilities set out in the articles the is form real from effort protection to generation successor nation, with the aim is that Indonesian children can grow with noble morals, quality superior and prosperous. Maintenance protection to children involved in distribution narcotics This aim

Because children seen as a victim (Article 3 of the Law Number 23 of 2002). Therefore, it is good government nor public must Work The same to eradicate narcotics distributed by children (Koesno, 2014). However, in practice, it is not Enough only with provision Constitution mere (law in the book), but also requires effective implementation (law in action).

Effective implementation must notice action prevention. Preventive measures should be carried out in the environment near the child, like family, school, and community surroundings. Strong religious education, moral teaching, and a positive environment is possible steps distance children from risky relationships. The government also needs it to give support with provide facility good education and socialization about danger narcotics distribution to parents, teachers and the community in a way wide. It is important to take precautions as early as Possible to potential children involved in abuse or narcotics distribution (Koesno, 2014).

Apart from that, law enforcement against perpetrator dealer narcotics and exploitation child for their narcotics distribution activity must done in a way firm. With Thus, countermeasures narcotics distribution by children must covers all over aspect, incl prevention, law enforcement and handling to network dealers who take advantage children.

## Conclusions

From the description above can be concluded that A children involved in distributing narcotics should considered as a victim, no as perpetrator. This matter is because of the state, government and society's own obligation to protect children in the process of growth. Narcotics distribution used by children part big caused by internal factors within oneself children and factors external from environment closest to where the child is the stay. Second factor This often related with negligence of parents, family, society and government in fostering and educating child.

Application punishment to children involved in distribution narcotics considered No in accordance Because child considered as a victim, no perpetrator follows criminal. Therefore, a more approach appropriate is rehabilitation child these in various ways aspect like physical, health, psychological, and social. In context this, implementation punishment criminal only nature corrective and repressive.

Efforts to overcome narcotics distribution by children should start from environment closest and supported by the government. This can be done through action prevention by parents, teachers and the surrounding community place stay child. They own the right to supervise association children, give moral, religious and formal education for children spared from wrong association. When the child is already involved in narcotics distribution, handling should be done through rehabilitation. The goal is for the child they can realize the mistake, regret it his actions, and can return integrate into society with Good.

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