

## Legal Protection Against Children as Intermediary of Purchase of Narcotics at Polewali Mandar Police Resort Area (Case Study Year 2013 - 2015)

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### Abstract

The problem of narcotics abuse in Indonesia is now felt in an alarming situation. Narcotics abuse by children today is the concern of many people and is constantly being discussed and published. Indonesia has participated in

participating in tackling the crime of narcotics abuse, namely the legislation of Law Number 35 Year 2009 on Narcotics. Factors that cause the child to mediate the sale and purchase of narcotics in polewali polarization polarization area due to family factors, environmental factors and economic factors. Efforts made by law enforcement officers, especially the Police in tackling the crime of narcotics circulation involving children as intermediaries of buying and selling, namely: prevention efforts (preventive) by providing counseling in the community and schools about narcotics, conduct raids and patrols regularly, (repressive), and coaching efforts to keep the future of the child can remain good. From this writing shows that children who commit narcotics crime, especially as narcotics courier, can be charged with Law number 35 of 2009 on Narcotics by not ruling out the special provisions set forth in Law Number 11 of 2012 on the Criminal Justice System of Children.

**Keywords:** Community Understanding, Causes Factor, Narcotics Courier

## A. Introduction

Children have an important role in the life of society and state, because of his position as a substitute or successor to the nation. Therefore the child has the potential to play an active role in preserving the life of a noble nation, whose foundations have been laid by the previous generation, in order to realize the goal of forming a government that protects its people. As the successor of the nation's ideals, the child has a noble duty and heavy responsibility for the

realization of the goals of the Republic of Indonesia. Narcotics abuse by children today is the concern of many people and is constantly being discussed and published. In fact, the problem of narcotics abuse is the concern of various circles. Almost all of them reminded and wanted the people of Indonesia

The problem of narcotics abuse in Indonesia is now felt in an alarming situation. As an archipelagic country that has a strategic location, both in terms of economic, social, and politics in the international world, Indonesia has participated in participating in overcoming the crime of narcotics abuse, namely the legislation of Law Number 35 of 2009 on Narcotics.<sup>1</sup>

Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic which can cause decreased or altered consciousness, loss of pain and may cause dependence (Law Number 35 of 2009).<sup>2</sup> Law Number 35 Year 2009 on Narcotics has regulated the criminal provisions for anyone who may be subject to criminal charges and penalties that must be borne by a narcotics abuser or may be referred to as a narcotics offender. In the narcotics law itself does not distinguish specifically between the perpetrators of narcotic criminal acts. Both the perpetrator who commits the act, who participates in the conduct and advocate or helper can be called as the perpetrator of a crime. The involvement of a child in a narcotics courier who is a narcotics courier is a series of evil conspiracy in illegally conducting illegal narcotics, but in the capacity of the courier category, this is a matter of great concern where the child has dealt with the law and is classified as having committed criminal narcotics.

However, the child's limited and imperfect ability of the adult must be observed by law enforcement officers in applying the punishment for the child of the perpetrators of narcotic crime, the issuance of Law Number 11 Year 2012 on the Criminal Justice System of the Child as a substitute of Law Number 3 of 1997 on the Juvenile Court will provide for the application of criminal

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<sup>1</sup> Sutarto Sutarto, "PENERAPAN REHABILITASI MEDIS DAN REHABILITASI SOSIAL TERHADAP KORBAN PENYALAHGUNAAN NARKOTIKA DITINJAU DARI TEORI PEMIDANAAN RELATIF," *Jurnal Penegakan Hukum Indonesia* 2, no. 1 (2021), <https://doi.org/10.51749/jphi.v2i1.18>.

<sup>2</sup> Zhetira Rizkika and Nandang Sambas, "Perlindungan Hukum Terhadap Anak Korban Pelecehan Seksual," *Bandung Conference Series: Law Studies* 2, no. 2 (2022), <https://doi.org/10.29313/bcsls.v2i2.2553>.

punishment which is more fostering and protective against the offender's children.<sup>3</sup>

## B. Research Mehtod

Legal research is an activity of a person to answer legal issues that are academic and practical, whether they are legal principles, legal norms that live and thrive in society related to legal reality and society. The writing of this paper uses the type of normative legal research. In the view of Abdulkadir Muhammad in his book "Law and Legal Research", it states that:<sup>4</sup>

"Normative legal research is a legal research that examines written law from various aspects, namely aspects of theory, history, philosophy, comparison, structure and composition, the scope and matter of consistency, general explanation and article by section, formalities and strengths binding a law, legal language used".

Normative legal research is conducted by examining the legal materials obtained from primary legal materials, secondary law materials and tertiary legal materials, and in this legal research using the approach in solving problems, namely by using the statutory approach (the statute approach) associated with the issues discussed.<sup>5</sup>

## C. Result & Discussion

### 1. Factors That Cause Children to Become Intermediaries Buying and Selling Narcotics in Polewali Mandar Police Law Area

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<sup>3</sup> H S Asnawi, "Status Hukum Dan HAM Anak Dalam Sistem Peradilan Pidana Anak Di Indonesia," *Istinbath: Jurnal Hukum*, 2015.

<sup>4</sup> Irwansyah Irwansyah, "Penelitian Hukum: Pilihan Metode \& Praktik Penulisan Artikel," *Yogyakarta: Mirra Buana Media*, 2020.

<sup>5</sup> Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (2020), <https://doi.org/10.14710/gk.2020.7504>.

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Narcotics crime is unlike other crimes, which in this criminal ankkotika the author limits himself to the things that have correlation with narcotics crime that occurred in Polewali Mandar within 3 (three) years, starting from 2013 until 2015. From the results of interviews conducted by the author with one of the children who became the broker of narcotics sale said that the main factor that causes the child to be a mediator of narcotics in Polewali Mandar is the environmental factors around them either from the family environment and the environment (association) of the factors above, as a factor causing the circulation of narcotics involving the child as its intermediary, as revealed by the respondents mentioned above, will the authors explain and need to be studied and also studied further criminology, but not apart from the narratives of the perpetrators themselves

#### 1. Family Factor

The family is one of the first social groups to influence the life of a newborn child. In the family, a child learns to play a role as a social being with certain norms and abilities in the society in the community. Experience experiences gained in the family is very decisive ways of behaving a child with the environment outside his family, the environment around (association). Likewise, poor households can adversely affect the psychological development of the child's soul, one of which is the lack of harmony in the household with both the parents and the child's brother. The child who is supposed to get the affection and attention of the person closest to him, entirely departs with the will of the child, because of this so that the child often exhibits deviant behavior that can disturb the community. Lack of attention and affection in this case which is so needed by the child makes him feel frustrated and disappointed and anxious. As a frustrating outlet with his disappointment, the child spontaneously acts and behaves negatively. Thus, the family environment plays an important role in child development and becomes the foundation of the personality of a child. Therefore, it can be said that every person has a way of life, be both obedient and vice versa. However, family is a major factor in shaping the child's personality.

#### 2. Environmental factor

In addition to family factors and then write review factors that contribute to and greatly affect the child easily enter the crime of narcotics circulation and become a broker buying and selling is the factor of intercourse children outside the home. After the child does not get the desired in the family, the child tries to find busy and looking for peers to hang out. This is needed but without any supervision from the family then the child may get a social relationship that is not, let alone to get supervision, love say attention in rumahpun children do not get it. When the child has been associated with those who do deviant things, it is not impossible that the child will be affected also to do things deviate. So the environmental and social issues of this child, a factor that greatly affects the child can enter and engage in narcotics circulation even though only become an intermediary. Bripka Abdul Gafur SH MH as Kanit Linik on Sat. Serse Drug Polres Polewali Mandar, said that family and social factors that greatly affect the crime of this narcotic. Furthermore, it is also added that with the many drug syndicate groups in Polewali Mandar, basically been pushed by those who are not responsible, it automatically tends to have an unhealthy impression that does not rule out the possibility of narcotics transactions and one way that is, menjadikan child as its intermediary.

### 3. Economic Factors

In addition to the 2 (duan) factors above, which became a major influence so that children can fall into the circulation of narcotics and mediate the sale and purchase is an economic factor. In the broad maspadaakan community in everyday work to meet the needs of family economy and other costs that must be disse with payment. No exception for children who become brokers buying and selling narcotics that occurred Polewali Mandar, but different from adults, the reason the child wants to be an intermediary is to get more pocket money on the grounds to follow the style of today both in terms of appearance and others, but there are also of them there is not knowing the they let them know that they only earn money.<sup>6</sup>

## 2. Disaster Management Efforts by Law Enforcement Officials

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<sup>6</sup> Gafur Abdul, "Keterangan Dari Kanit Linik Sat. Reserse Narkoba Polres Polewali Mandar," 2016.

As we know that evil is an actual problem that every time becomes a conversation everywhere, the reasons for the occurrence of crime are very diverse. Crime is a product of society. It is a social phenomenon facing the community, both in rural and in urban areas, as it is widespread in Polewali Mandar. The evil grows in conformity with the development and circumstances of the region. Therefore, the way in which crime prevention in general and especially narcotics circulation involving children as its intermediary must also be adapted to the situation and condition in a society. So its relative, it can apply in particular or in general.

Culture, government and wisdom also influence the ways of overcoming the crime of narcotics circulation involving children as an intermediary that occurred in Polewali Mandar. To cope with narcotics crime involving children as their intermediary in Polewali Mandar, it is not easy to find the best effort to reduce and further to be eradicated. But in this case, law enforcement officers especially the police have taken sufficient steps in efforts to overcome the narcotics circulation involving children as a mediator of course with the help of parents, families and all levels of society in Polewali Mandar. The efforts that have been made by police officers with the help of all levels of society in overcoming the narcotics circulation involving children as their intermediary in Polewali Mandar in 2013 until 2015, are as follows:

#### 1. Preventive Efforts

Preventive measures are commonly called preventive measures. This action is an effort that is done systematically, planned, integrated and directed to the purpose of keeping the circulation of *anakkotika* involving children so that *perantannya* not arise. In the prevention of this action is also done by narrowing, reduce and minimize the space for the effect can be muted against other aspects of life. Therefore this preventive effort is done systematically, planned, integrated and directed. It requires good cooperation with the parties, be it parents, family, government and all levels of society. According to Kanit Linik Sat. Serse Drug Polres Polewali Mandar Police, Bripka Abdul Gafur SH MH (December 28, 2016), prevention of preventive trafficking is as follows:<sup>7</sup>

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<sup>7</sup> Abdul.



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- a) Conduct counseling to offices, schools and communities on collective responsibility and raise awareness of community law and community participation in efforts to address narcotic dangers that begin to spread and make children intermediaries.
  - b) Appeal to parents to pay attention to their children not to fall into this. One of them pay attention to the child's daily life inside and outside the house.
  - c) Call on governments, public and community leaders to increase the vigilance that enables the act of narcotics circulation.
  - d) Implement physical activities, such as patrol to vulnerable places and activities of surrounding communities.
  - e) Appeal to all levels of society to become informants to the police if there is an unexplainable occurrence especially for the circulation of narcotics.
  - f) Conducting counseling about the negative impact of narcotics which is integrated and priodic, that is between all related elements and implemented in whole with involving the potential that exists. This is intended to increase public legal awareness to reduce the rate of crime development in general, especially the circulation of narcotics that has resulted children as its intermediary.
  - g) Providing support to parents and children through activation of PKK and LKMD programs as the simplest form of organization at the RT / RW level by giving counseling to parents and children how important a harmonious relationship should be built, religious, mental and good manners to the child, ways of nurturing and educating the child up to instill discipline to the child and knowledge of specific skills about married.

## 2. Repressive Attempts

In addition to the activities and preventive efforts undertaken, unity in the ranks of Sat. Serse Polres Drug Polres Polewali Mandar Police also take action against cases of drug trafficking involving children as a courier. This action is



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known as repressive action. In tackling the crime of narcotics circulation involving the child as an intermediary in this Polewali Mandar, Police Drug Unit Polewali Mandar Police do the following actions:

- a) Conducting the creation of a special team in an area that is subject to the occurrence of drug trafficking / transactions, namely by disguise as a buyer with the investigation to seek and arrest unscrupulous persons who are engaged in buying and selling transactions. Make the community as an informant to facilitate the way this effort.
- b) Conducting raids to places that are considered always used in arrange narcotics to be traded as a place of intercourse children who late into the night, catching street children, for example: punk children are a lot of wandering now because they become one of the factors of circulation and the target to serve as an intermediary for the sale and purchase of narcotics.
- c) Conducting school-school examination in order to avoid the thing that is feared, that is the circulation that occurred in the school that in fact is still a child's status. From some efforts that have been the authors pointed out above, is the continuity and unity of police in an effort to overcome the narcotics circulation either in general or the child who mediated.

Where also includes social and psychological aspects, which according to the author's opinion is an interdependent effort. According to the authors, that alternative tackling crimes in general and in particular the problem of narcotics circulation and also the circulation of anrkotika involving children as its intermediary can be through the improvement of economic prosperity and other cultural and social values, is a long-term response. Similarly, penaggualnngan crime through education, can only be known for a long time, but this is quite efficient. Meanwhile, to overcome the crime in general and the circulation of narcotics and also the circulation involving the child as an intermediary in particular in the short term, it must be needed effort that can run efficiently. Especially for children is a strict supervision by parents, the

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assertiveness of parents and community leaders in order to avoid the effects of outside to do things that deviate

### 3. Coaching Efforts

In accordance with the information obtained by the author, the child who had been trafficked in the narcotics circulation was only secured in the office with the term

time 1x24 hours for questioning after it is returned to the parent or guardian to be given coaching but still under the supervision of law enforcement officers, especially the police to make this pebinaan run as expected. And the guidance that is done to the child who becomes the intermediary of the sale and purchase of narcotics is the guidance of independence and skill development which is done in place of the child domicile.

#### 1. Development of Independence.

Guidance of independence is the most preferred coaching by police officers for children because, if the soul of independence of children start terbagun then the next coaching will be easier on the run. And this coaching includes mengenai

- a) religious education. Children are given an explanation that all religions prohibit the existence of deviant and give short speeches to children, which aims that children do not want to fall into the circulation of narcotics, especially the intermediary of buying and selling.
- b) Public education. In this guidance is given the explanation that the successor and the perpetrator of the nation is their then hence, the beginning to be a good citizen and become the nation's future is to combat the circulation of narcotics. And provide motivation for children to improve themselves.
- c) Physical education. In this guidance, police officers who become supervisors provide a schedule to exercise regularly and provide an explanation that health is very important and as it is known that



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Case, was charged with an alternative indictment with the indictment of Article 112 paragraph (2) or Article 115 paragraph (1) of Law Number 35 Year 2009 on Narcotics. In the alternative indemnification legally gives the judge the choice to be able to directly prove which charges are deemed most appropriate based on legal facts. Article 112 paragraph (2) of Law Number 35 of 2009 concerning Narcotics is explained, although the defendant has testified that he / she is an intermediary in the narcotics transaction but at the time of the arrest of the police, the evidence is kept and not in the process of transferring to the provision in Article 112 paragraph (2) of Law Number 35 of 2009 can be proven because the Defendant of Narcotics Brokers in his trial there are two important elements that must be proven on the charge of narcotics control under Article 112 of Law Number 35 on Narcotics. It must fulfill the element of 'power over an object', and the willingness to possess it '.

If the suspect or defendant does not know how he or she is found to be carrying narcotics and, moreover, does not want to own the object, the formulation of Article 112 of Law Number 35 Year 2009 on Narcotics becomes unproven. Because the defendant's son knew and wanted to have the item (narcotics) in accordance with the facts of the hearing then the formulation of Article 112 of Law Number 35 on Narcotics became evident, thus explaining that intermediaries are not always subject to the article with the provisions of intermediaries. Law number 11 of 2012 on the Criminal Justice System of the Child regulates all elements of the related criminal justice in handling cases that are problematic with the law, the purpose of this law so that the realization of justice can ensure the best interests of children in conflict with the law.

According to Law Number 11 Year 2012 on the Criminal Justice System of Child, explaining that a child offender can be subjected to two types of sanctions, namely action sanctions, for offenders under the age of 14 years (Article 69 paragraph (2) Undang Number 12 Year 2012) and Criminal, for offender of crime aged 15 years and above. Law Number 11 Year 2012 on the Criminal Justice System of Children explicitly regulates Restorative Justice and Diversi which is expected to create a judiciary capable of guaranteeing the protection of the best interests of children facing the law.

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Article 1 point 7 mentioned *Diversi* is the transfer of the Case of the Child from the criminal justice process outside the criminal court. Because the function of *Diversi* is that children who are faced with the law are not stigmatized due to the judicial process that must be lived. Implementation of *Diversi* is given to law enforcers (police, prosecutors and judges) in handling law enforcement cases involving children without the use of formal justice intended to reduce the negative impact of the judicial process.

#### **4. Legal Protection Against Children as Narcotics Courier According to Law Number 11 Year 2012 on Child Criminal Justice System and Law Number 35 Year 2014 on Child Protection**

Legal protection of children is expected to protect their rights to avoid wrong handling during the criminal justice process. Legal provisions on children, especially for children who commit crimes are regulated in Law Number 11 of 2012 on the Criminal Justice System of Children, where the application of criminal punishment is more fostering and protecting against children, compared with the previous law because in this law has to regulate the differentiation of treatment in the procedural law and its criminal threat. The differentiation of treatment and threats set forth in this law is intended to provide greater protection and protection for children in the face of its long-term future.

Law Number 35 of 2014 concerning Amendment to Law Number 23 Year 2002 regarding Child Protection, regulating Special Protection for Children against the law as referred to in Article 59 paragraph (2) letter b. This Special Protection is the protection of the rights of the child to be protected as described in article 59 A. Narcotics Crime is a victimless crime and under the Child Protection Act, the child involved in narcotics crime must be considered a victim and not an offender ignorance and lack of coaching from parents and government in terms of legal consequences of narcotics abuse.[16]

## **D. Conclusions**

Factors causing the circulation of narcotics involving children as intermediaries in the sale of Polewali Mandar from 2013 to 2015 are Family Factors, Environmental Factors and Economic Factors in the prevention of narcotics circulation involving children as intermediaries in the sale of Polewali Mandar. Polewali Police Station Mandar, especially the Drug Serse Unit has sought to take action against children involved in narcotics circulation, by doing Preventive Efforts (prevention efforts), Repressive Efforts (efforts with active action) and the Efforts of Coaching for children to celebrate the future of the child remains bright.

Law Number 35 Year 2009 on Narcotics, explains in general about criminal sanctions for narcotics (messenger) narcotics but does not specifically regulate the criminal sanctions for children who become narcotics couriers. But basically narcotics actors concerning children as narcotics couriers remain snared with the articles as stipulated in the Narcotics Act but not exclude the special provisions set forth in Law Number 11 of 2012 on the Criminal Justice System of Children.

Legal protection for children violating crime is expected to protect children's rights. Restorative Justice as a goal in implementing Diversity in the Criminal Justice System is intended keeps the child away from the judicial process so as to avoid stigma against children facing the law and the child can return to his or her social surroundings naturally. Because Narcotics crime is a victimless crime, the child involved in narcotics crime must be considered a victim.

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