

## LEGAL CONSEQUENCES FOR ADOLESCENT NARCOTICS ABUSERS BASED ON THE LAW NUMBER 35 YEAR 2009

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### **Abstract**

This paper aims to analyze the legal paradigm of Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics and legal arrangements for adolescent narcotics abusers. This type of research is normative using a statutory approach. The data used is secondary data obtained through library research. All data collected were then analyzed qualitatively. The results showed that the legal paradigm of the Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics is to prioritize community participation in efforts to prevent and eradicate abuse of Narcotics and Narcotics Precursors and to create a deterrent effect on perpetrators of abuse and illicit trafficking of Narcotics and Narcotics Precursors. imposition of criminal sanctions, whether in the form of a special minimum sentence, imprisonment of 20 years, up to death penalty. The legal arrangement for juvenile narcotics abusers refers to Article 1 point 3 of the Law of the Republic of Indonesia Number 11 Year 2012 concerning the Juvenile Criminal Justice System. If the narcotics user is a teenager who has not reached the age of 18 years, the criminal sentence that can be imposed on the child is a maximum of 1/2 of the maximum imprisonment for adults as stipulated in the Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics.

**Keywords:** *adolescents, legal consequences, narcotics abusers.*

### **INTRODUCTION**

The problem of drugs in Indonesia is still urgent and complex. In the past decade, this problem has become rampant. This is proven by the significant increase in the number of drug abusers or drug addicts, along with the increasing disclosure of cases of drug crimes with more diverse patterns and more massive syndicates. country, regardless of social, economic, age or educational level. Until now, the level of drug trafficking has penetrated at various levels, not only in urban areas but also in rural

communities. This has become a concern for us, to always make preventive efforts at various levels. The drug problem has plagued almost all countries in the world, as a result of which millions of people experience drug dependence, destroying family life, threatening the security and security of the nation and state. Based on the report of the world body, the United Nations Office on Drugs and Crimes, UNODC (United Nations Office On Drugs Crimes), the efforts of tight drug control by countries in the world have been able to control drug trafficking in Europe, America and Asia. The circulation of drugs carried out by perpetrators of organized crime has continued to increase, so that various efforts are needed to protect people from the dangers of drug abuse. Drug abusers are ranked 20th in the world as a cause of death rates and at 10th in developing countries, including Indonesia. Drug users are known to be very vulnerable and susceptible to HIV, Hepatitis and Tuberculosis, which can then be transmitted to the general public. It is on this basis that UNODC considers drug abuse to be a health problem.<sup>1</sup> Thus, this is a warning to countries in the world that narcotics is a real threat that brings huge losses, especially to the younger generation.

Broadly speaking, narcotics abuse can be grouped into three factors, each of which has a correlation with one another. First, the individual factor which is based on behavior that is easily discouraged and disappointed, so that the escape is none other than by misbehaving by abusing narcotics. Second, environmental factors, both family environment and social environment. Third, the regulatory factor, where the regulation and enforcement of the law is often inconsistent and creates a bias of interest in the application of the law. Various theories and views have been put forward by experts regarding the causes of crime, including crimes in the field of narcotics abuse, both among adults and adolescents. Generally, these experts say that environmental influences play a very important role in the occurrence of deviant behavior, including drug abuse.<sup>2</sup> Here, it can be seen that the individual factor is the dominant factor why narcotics abuse occurs among adolescents. Emotional instability, immature thinking, and many problems make him depressed and have a great potential to abuse narcotics.

Narcotics abuse has spread to some parts of the community in big cities and small cities, even the circulation is difficult to stop. The abuse of narcotics is used not for the purpose of treating illness, but is used deliberately to achieve a "certain consciousness" because of the effect of drugs on the soul. As Indonesian people, in general, currently, they are faced with a very difficult situation to worry about due to the rampant use of various kinds of narcotics and psychotropic drugs. Basically the circulation of narcotics in Indonesia is very wide. The Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics has provided different treatment for narcotics abusers. Narcotics users or addicts as perpetrators of narcotics crimes are imprisoned by the perpetrators of narcotics abuse. In addition, it can be said that narcotics addicts are victims, this is indicated by the provision that narcotics addicts can be sentenced to rehabilitation.<sup>3</sup> Law enforcement against crimes in Indonesia, especially in criminal cases, should refer to a norm approach that is punishing criminals so as to create a deterrent effect. The existence of law enforcement in terms of its vision and mission of law enforcement, both at the level of investigator, prosecutor to court level, should have the same presence according to lawsuits and public justice.<sup>4</sup> Thus, the community feels protected by the law which is consistently implemented by law enforcers. Especially for adolescents who abuse narcotics, when they become victims (not drug dealers, couriers, or even drug dealers), rehabilitation is a pretty good thing to do.

Within the scope of the Republic of Indonesia, the level of drug abuse has an extremely significant impact. Both from a social and economic side. Based on data compiled by the National Narcotics Agency, from the level of financing for matters related to drugs, the state has issued a budget of around 45 trillion, with details to finance rehabilitation, treatment and legal processes. This figure is very fantastic for the size of Indonesia which is still in a developing stage. Therefore, care is needed from each component to jointly prevent and eradicate drug trafficking. Youth and its development. Youth (adolescents) is a productive age that requires special attention, because in this position, the level of identity search and tends to be unstable. The mindset of young people is sometimes just instantaneous, and they look for the easy one when they face something difficult. There are several factors that cause or influence a teenager's behavior, including: (1) friendship factors; (2) Development

<sup>1</sup> Muntaha, Aspek Yuridis Penyalahgunaan Narkotika di Kalangan Remaja, *Mimbar Hukum*, Vol. 23, No. 1, 2011, p. 214

<sup>2</sup> National Narcotics Agency of the Republic of Indonesia, Remaja dan Penyalahgunaan Narkotika, Article published on April 22, 2013, see <https://bnn.go.id/remaja-dan-penyalahgunaan-narkotika/>; See also Anwar Nuris, Remaja dan Penyalahgunaan Narkotika, Majalah NIAT, II Edition, 2013.

<sup>3</sup> Andri Winjaya Laksana, Tinjauan Hukum Pidana Terhadap Pelaku Penyalahgunaan Narkotika dengan Sistem Rehabilitasi, *Jurnal Pembaharuan Hukum*, Vol. II, No. 1, 2015, p. 75

<sup>4</sup> Siswanto Sunarsono, *Penegakan Hukum Psikotropika Dalam Kajian Sosiologi Hukum*, Jakarta: RajaGrafindo Persada, 2004, p 7

of Information Technology; (3) Cultural Influences; (4) The Hedonism Lifestyle. Some of these factors act as triggers in every person's lifestyle and rationale, including in the case of drug abuse. Often a young person is trapped into a black valley of drugs just because of the friendship factor that gives rise to the desire to experiment. If we analyze the influence of peers to be the most effective method for drug trafficking, a person is easily influenced by friends who are considered at his level. In addition, technological developments are increasingly sophisticated, from the negative side it also raises negative potentials. At a time like this, it is arguably The Nations Without State, the flow of information is so swift in without going through a filter that social boundaries can be said to be unlimited free.<sup>5</sup> In the narcotics law there are deviations from the general principles of criminal law, both in material criminal law and in formal criminal law. Meanwhile, the facts show that the narcotics law has not effectively tackled the use of narcotics, especially among teenagers in Indonesia. To tackle and prevent narcotics abuse among adolescents, a holistic approach is needed, especially in the family and school environment. In addition, law enforcers must always conduct socialization on the dangers of narcotics among adolescents on an ongoing basis. The community should play a role in preventing the abuse and illicit trafficking of narcotics, especially among adolescents.<sup>6</sup> Based on this description, the issues discussed in this paper are what is the legal paradigm of the Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics? and what are the legal arrangements for adolescents narcotics abusers?

## METHOD

This type of research is normative<sup>7</sup> by using a statutory approach.<sup>8</sup> The data used is secondary data obtained through library research.<sup>9</sup> All data collected were then analyzed qualitatively.

## RESULTS AND DISCUSSION

### Legal Paradigm of the Law of the Republic of Indonesia Number 35 Year 2009

Narcotics are substances or drugs that are very useful and necessary for the treatment of certain diseases. However, if it is misused or used not in accordance with the standard of treatment it can cause very detrimental consequences for individuals or society, especially the younger generation. This will be more detrimental if accompanied by the abuse and illicit trafficking of Narcotics which can result in a greater danger to the life and cultural values of the nation which in turn can weaken national resilience. To prevent and eradicate the abuse and illicit trafficking of Narcotics which are very detrimental and endanger the life of the community, nation and state, at the General Session of the People's Consultative Assembly of the Republic of Indonesia in 2002 through the Decree of the People's Consultative Assembly of the Republic of Indonesia Number VI/MPR/2002 has recommended it to the House of Representatives The people of the Republic of Indonesia and the President of the Republic of Indonesia to make changes to Law Number 22 Year 1997 concerning Narcotics. Law Number 22 Year 1997 concerning Narcotics regulates efforts to eradicate the crime of Narcotics through the threat of a fine, imprisonment, life imprisonment and death penalty. In addition, Law Number 22 Year 1997 also regulates the use of Narcotics for medical and health purposes as well as regulates medical and social rehabilitation. However, in reality the Narcotics crime in society shows an increasing trend both quantitatively and qualitatively with widespread victims, especially among children, adolescents and the younger generation in general. Narcotics crime is no longer carried out individually, but involves many people together, even as an organized syndicate with a wide network that works neatly and is very secretive both at the national and international levels. Based on this, in order to increase efforts to prevent and eradicate the crime of Narcotics, it is necessary to reform Law Number 22 Year 1997 concerning Narcotics. This is also to prevent an increasing trend both quantitatively and qualitatively with widespread victims, especially among children, adolescents, and the younger generation in general.<sup>10</sup> This is very important for the government and all levels of society to pay attention to, because narcotics is very dangerous in destroying the national order and hindering a national development.

In addition, to protect the public from the dangers of Narcotics abuse and prevent and eradicate the illicit trafficking of Narcotics, this Law also regulates Narcotics Precursors because Narcotics

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<sup>5</sup> National Narcotics Agency of the Republic of Indonesia, 2013, *Loc.Cit.*

<sup>6</sup> Muntaha, 2011, *Loc.Cit.*, p. 220

<sup>7</sup> Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif*, Jakarta: Rajawali Pers, 2011, p. 14

<sup>8</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group, 2010, p. 96

<sup>9</sup> Kadarudin, *Riset Sederhana di Bidang Ilmu Hukum*, Ponorogo: Uwais Inspirasi Indonesia, 2020, p. 63

<sup>10</sup> See general explanation of the Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics

Precursors are substances or starting materials or chemicals that can be used in the manufacture of Narcotics. This Law is attached regarding Narcotics Precursors by classifying the types of Narcotics Precursors. In addition, it also regulates criminal sanctions for the abuse of Narcotics Precursors for the manufacture of Narcotics. In order to create a deterrent effect on the perpetrators of abuse and illicit trafficking of Narcotics and Narcotics Precursors, the imposition of criminal sanctions is regulated, either in the form of a special minimum sentence, imprisonment of 20 years, life imprisonment and death penalty. Such criminal charges shall be carried out based on the class, type, size and number of the Narcotics. To more effectively prevent and eradicate the abuse and illicit trafficking of Narcotics and Narcotics Precursors, it is regulated on the strengthening of existing institutions, namely the National Narcotics Agency (Badan Narkotika Nasional/BNN). The BNN is based on Presidential Regulation Number 83 of 2007 concerning the National Narcotics Agency, the Provincial Narcotics Agency and the Regency/City Narcotics Agency. The BNN is a non-structural institution that is under and directly responsible to the President, which only has the task and function of coordinating. In this Law, the BNN is upgraded to a non-ministerial government agency and strengthened its authority to conduct investigations and investigations. BNN is based under the President and is responsible to the President. In addition, the BNN also has representatives in provincial and district/ city areas as vertical agencies, namely the provincial BNN and district/city BNN. To further strengthen the institution, it also regulates all assets or assets that are the proceeds of the crime of Narcotics and Narcotics Precursor and money laundering crime from the crime of Narcotics and Narcotics Precursor based on a court decision that has obtained legal force to remain confiscated for the state and used for the interests of implementing prevention and eradication of illicit trafficking of Narcotics and Narcotics Precursors and medical and social rehabilitation efforts. In order to prevent and eradicate the abuse and illicit trafficking of Narcotics and Narcotics Precursors whose operating mode is increasingly sophisticated, this Law also regulates the expansion of wiretapping techniques, under cover buy techniques, and controlled handover techniques. (delevery), as well as other investigative techniques to track and uncover the abuse and illicit trafficking of Narcotics and Narcotics Precursors.<sup>11</sup> Law enforcement officials need to maximize efforts to curb the circulation of narcotics, especially the president's commitment to declaring the war on narcotics to be the main focal point for all elements of society in fighting narcotics.

This Law also regulates the role of the community in efforts to prevent and eradicate abuse of Narcotics and Narcotics Precursors, including the awarding of community members who have contributed to efforts to prevent and eradicate abuse of Narcotics and Narcotics Precursors. This award is given to law enforcers and the public who have been instrumental in efforts to prevent and eradicate the abuse and illicit trafficking of Narcotics and Narcotics Precursors. In order to prevent and eradicate the abuse and illicit trafficking of Narcotics and Narcotics Precursors which is carried out in an organized manner and has a wide network beyond national borders, this Law regulates cooperation, both bilaterally, regionally and internationally.<sup>12</sup> This international cooperation is very important because considering that many countries have suffered as a result of the trafficking of narcotics.<sup>13</sup> Thus, there is no other more important effort to do apart from carrying out international cooperation and efforts to prevent and control narcotics by the state apparatus to the maximum.

### Legal Arrangements for Adolescents Narcotics Abusers

Youth is a generation that is influential in realizing the ideals of a nation, as the next generation and as a generation that is expected by a nation to be able to change the condition of the nation for the better. The growth and development of adolescents nowadays can no longer be proud of and emulated. Current juvenile delinquency behavior is difficult to monitor and overcome. Recently, we have often heard news in various mass media and in print media about juvenile delinquency, which includes brawls, rape, and delinquency using narcotics and psychotropic drugs carelessly. The current misuse of narcotics and psychotropic substances does not only involve high school students and university students but has also affected elementary school students.<sup>14</sup> It is so complex that it is not an easy matter to withstand the abuse of a suspected addict so that it persists

<sup>11</sup> See general explanation of the Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics.

<sup>12</sup> *Ibid.*

<sup>13</sup> Kadarudin, Thamrin H., Liao YM. (2018) Drug-Related Crimes and Control in Indonesia and Taiwan: Cooperation Regarding Narcotics Smuggling Prevention and Countermeasures from the Point of View of International Law. In: Uden L., Hadzima B., Ting IH. (eds) Knowledge Management in Organizations. KMO 2018. Communications in Computer and Information Science, vol 877. Springer, Cham, [https://doi.org/10.1007/978-3-319-95204-8\\_27](https://doi.org/10.1007/978-3-319-95204-8_27)

<sup>14</sup> M. Ra'uf, *Dampak Penyalahgunaan Narkotika Terhadap Remaja dan Kamtibmas*, Jakarta: Dharma Bhakti, 2002, p. 1

for only the minimum period of time. Furthermore, time and strategy are also needed to force the individual to remain actively involved in the intervention process until he shows signs of recovery which are quite convincing.<sup>15</sup> This needs to be done so that the healing rate or the healing process can be faster.

Narcotics, psychotropic substances and other addictive substances (narcotics) are extraordinary crimes. Currently in Indonesia there are 3 major crimes that require intensive attention, including drug abuse, corruption and terrorism. Drug abuse is indeed something that is scary if it is not handled immediately, because the impact it creates is very terrible. As a result, drug abuse can lead to or lead to new crimes, such as stealing, robbing and various acts of violence and free sex. Basically, there are three general properties of drugs, namely Depressants, Stimulants and Hallucinogens. Depressants are suppressing the nervous system so that users of this type of drug can become unconscious, and even have a weaker heart rate. The second characteristic is stimulant, which is to stimulate the nervous system so that it creates excessive fitness and has a tendency to always be fresh and fit when using drugs, for example the use of this type of shabu. The third is hallucinogens. The nature of this drug is to create dreams that are forced as if it is in accordance with reality even though this is not possible, for example the use of ecstasy. Of the three characteristics, the main target is the nervous system which will certainly change the level of one's thinking and consciousness. And what is even more fatal is that it causes damage to organs, from the heart, lungs, liver and kidneys. So basically what is attacked is a user physically or psychologically. In the medical process, executors of medical activities will always use the type of narcotics or psychotropic drugs, but in certain doses and dosages, for example in the process of anesthesia or treatment which will always require this type of drug. The level of drug consumption undergoes several phases, including trial users, regular users and addicted users. Regular users and addicted users will always go through the trial and error phase, by trying, although a little over time there will be an increase in the dose, this can be fatal if it happens. A drug addict, in his daily life will experience significant changes when compared to before using drugs. starting from the nature of the relationship, the way to dress to the association, an addict only hangs out with fellow addicts and has a closed nature.<sup>16</sup> A number of changes experienced by a drug addict will result in disruption of social relationships in the community, not only the closest neighbors, but also school friends or coworkers who will feel disturbed by this.

This juvenile delinquency behavior causes a tendency to be more aggressive, emotionally unstable, and unable to resist the urge to lust. The beginning of the use of narcotics by these teenagers is trial and error, but from trial and error this is the beginning of a problem that makes them addicted and do not understand the dangers. This culture also causes it to change the quality of its environment with all its consequences.<sup>17</sup> Rehabilitation is an effort to restore and restore the condition of former NAPZA abusers/addict to health in the sense of being physically, psychologically, socially and spiritually healthy (faith). With this healthy condition, it is hoped that they will be able to return to function normally in their daily life at home, at school/campus, at work and in their social environment.<sup>18</sup> This is very necessary because narcotics is currently stalking anyone, without strict supervision or special attention from parents, teenagers have the potential to become entangled in narcotics abuse.

There are several things to be aware of in every modus operandi of drug trafficking. First, the dealers will offer free bids to their target objects, and over time they will become regular customers with the target of making a profit. Drug crime in Indonesia is regulated in the Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics. The law regulates in detail the criminal sanctions and legal process of the perpetrators. This is a form of revision of the Law on Psychotropics. The Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics is evidence of the seriousness of the state in its efforts to eradicate drugs. Drug crime is a Lect Specialist or specialization when compared to other criminal acts. In the law, the heaviest sanction is the death penalty with certain considerations. The big hope is to actually enforce the rules of law to be able to reduce the level of drug abuse in our beloved Indonesia. In Article 54 of the Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics it is explained that addicts/users are required to undergo both medical and social rehabilitation, of course by taking into account the various existing prerequisites. In addition to law enforcement and rehabilitation efforts, active

<sup>15</sup> Reza Indragiri, *Psikologi Kaum Pengguna Narkotika*, Jakarta: Salemba Humanika, 2008, p 80

<sup>16</sup> National Narcotics Agency of the Republic of Indonesia, 2013, *Loc.Cit.*

<sup>17</sup> Juli Suemirat Slamet, *Kesehatan Lingkungan*, Yogyakarta: Gajah Mada University Press, 1994, p. 21

<sup>18</sup> Dadang Hawari, *Penyalahgunaan & Ketergantungan NAZA (Narkotika, Alkohol, & Zat Adiktif)*, Jakarta: Gaya Baru, 2006, p. 132

participation from all levels of society is needed to support efforts to combat drugs, as stipulated in Article 104 of Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics. In this article, it is guaranteed that the community's involvement in providing information on the problem of narcotics crime is guaranteed. A great hope is contained in the mandate of this Law in preventing the illicit circulation of drugs in our beloved earth. Drug prevention, eradication and illicit drug trafficking is a responsibility for all of us. To realize the targeted that has been announced, namely towards a drug-free Indonesia by 2015. It takes the role of various parties, including in this case the community, to be able to play a central role in relation to narcotics crime. On the other hand, the law enforcement system must run fairly and the application of laws and regulations is in accordance with applicable regulations. We as the nation's generation should think systematically and have a better future physique, so that we can create something positive for our beloved nation and country.<sup>19</sup> The legal arrangement for adolescent narcotics abusers refers to Article 1 number 3 of the Law of the Republic of Indonesia Number 11 Year 2012 concerning the Juvenile Criminal Justice System.

In this regulation, it is stipulated that a child in conflict with the law, hereinafter referred to as a child, is a child who has reached the age of 12 years, but has not reached the age of 18 who is suspected of committing a criminal act. In addition to imprisonment being a last resort, criminal penalties for children are different from those for adults. If the narcotics user is a teenager who has not reached the age of 18 years, the criminal sentence that can be imposed on the child is a maximum of 1/2 of the maximum imprisonment for adults as stipulated in the Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics.

## CONCLUSION

The legal paradigm of Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics is to prioritize community participation in efforts to prevent and eradicate abuse of Narcotics and Narcotics Precursors including awarding community members who have contributed to efforts to prevent and eradicate abuse of Narcotics and Narcotics Precursors. In addition, to create a deterrent effect on the perpetrators of abuse and illicit trafficking of Narcotics and Narcotics Precursors, the imposition of criminal sanctions is regulated, either in the form of a special minimum sentence, imprisonment of 20 years, life imprisonment or death penalty.

The legal arrangement for adolescent narcotics abusers refers to Article 1 number 3 of the Law of the Republic of Indonesia Number 11 Year 2012 concerning the Juvenile Criminal Justice System. In this regulation, it is stipulated that a child in conflict with the law, hereinafter referred to as a child, is a child who has reached the age of 12 years, but has not reached the age of 18 who is suspected of committing a criminal act. In addition to imprisonment being a last resort, criminal penalties for children are different from those for adults. If the narcotics user is a teenager who has not reached the age of 18 years, the criminal sentence that can be imposed on the child is a maximum of 1/2 of the maximum imprisonment for adults as stipulated in the Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics.

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<sup>19</sup> National Narcotics Agency of the Republic of Indonesia, 2013, *Loc. Cit.*

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