

A LEGAL SYSTEM APPROACH IN THE HANDLING OF NARCOTIC CRIMES BY CHILDREN

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Abstract

Abuse of narcotics can destroy the joints of community and sustainability of the nation where the target is now leads to the wider community and young generation. The writing of this article uses the statute approach. The results showed the law has given space and special treatment for children in conflict with the law. Including if a child commits a crime in accordance with the provisions of a criminal act in Law Number 35 of 2009 concerning Narcotics. The state comes through regulations to provide special treatment for children who are in conflict with the law to make sure that the children's rights remain fulfilled. Law enforcement of criminal acts of misuse of narcotics by children in Wajo Regency has been carried out through penal and non-penal efforts. For more effectiveness and humanness of law enforcement, pre-emptive and preventive efforts such as carrying out legal counseling activities for children must be held continuously. This is part of efforts to save children as the nation's next generation, as mandates in the constitution of the Republic of Indonesia.

Keywords: *children, criminal act, law enforcement, legal system, narcotics.*

INTRODUCTION

In the context of nation and state, children are the successors of future generations.¹ As a rule of law that is clearly stated in the constitution, Indonesia provides protection for children. This is stated in the fourth paragraph of the Preamble of the 1945 Constitution of the Republic of Indonesia which states that children have a role as the nation's next generation who will continue the nation's struggle to realize its goals and ideals.

In its development, child protection in Indonesia has been further strengthened by the issuance of Law Number 35 Year 2014 concerning Amendments to Law Number 23 Year 2002 concerning Child Protection. Regulations that specifically regulate the protection and safeguarding of children's rights can be guaranteed and fulfilled. In addition, the Child Protection Law also regulates how the legal mechanism is used when children face the law. Not only from the perspective of the child as the perpetrator of crime, but also if the child is a victim and witness to a legal incident.

¹ Imran, Mappaselleng, N. F., & Busthami, D. 2020. Penegakan Hukum Terhadap Tindak Pidana Penyalahgunaan Narkotika Yang Dilakukan Oleh Anak. *Indonesian Journal of Criminal Law*, 2(2), 93-104.

One of the most vulnerable crime threats to children is the crime of narcotics abuse. Based on the 2018 World Drugs Reports published by the United Nations Office on Drugs and Crime (UNODC), 275 million people in the world or 5.6 percent of the world's population (aged 15-64 years) have used drugs. Meanwhile in Indonesia, based on BNN data as the focal point in the field of Prevention and Eradication of Drug Abuse and Illicit Drug Trafficking (P4GN), drug abuse in 2017 amounted to 3.4 million in the age range of 10-59 years.² Meanwhile, the number of drug abuse among students in 2018 (from 13 provincial capitals in Indonesia) reached 2.29 million people. One of the groups of people who are prone to being exposed to drug abuse are those in the age range 15-35 years or the millennial generation.³ Therefore, it takes an international cooperation by countries to combat narcotics crimes.⁴

The circulation of narcotics in Indonesia from a juridical aspect, is legal. Juridically, it only prohibits the use of narcotics outside the purpose of developing science and health services, but in reality their use is often misused. The use of narcotics is no longer for health purposes, but is used as a business object and has an impact on mental, physical and psychological damage to the younger generation.⁵

It is increasingly clear that narcotics abuse can destroy the joints of life in society and the state where the target is now aimed at the wider community and the young generation who are valuable assets for this country. Whether this country is good or not depends on the next generation, if the next generation is damaged then this country will be damaged. If that happens, it will pose a very big danger to the life and cultural values of the Indonesian people, which in turn will weaken national resilience and this is something we do not want.

The distribution of narcotics needs special attention, because the dangers they cause can threaten the survival of the state. In almost every region of Indonesia, the circulation of narcotics is one of the highest crimes. One of the areas where the distribution of narcotics is rampant among children and adolescents is Wajo Regency, South Sulawesi Province.

Drug abuse cases in Wajo Regency as disclosed by the Head of the Wajo District Attorney, Eko Bambang Marsudi, stated that specifically in Wajo Regency, almost all the contents of prisons in Class II B Prison in Sengkang were dominated by convicts in cases of drug or drug abuse. Around 70% of the occupants of the Class II B Prison in Sengkang are dominated by drug cases. He also hopes that it will become a serious concern for the government and the whole community because to tackle drug cases and prevent it, the care of all elements of society is needed. Because currently drug trafficking has reached remote villages. Even some, farmers, fishermen and minors are currently suspected of being contaminated with narcotics.⁶

The legal issues that occur in the data presentation above indicate the need for in-depth studies to investigate this issue. The crime of narcotics abuse is very vulnerable to children in the Wajo Regency area. A study is needed on how to protect children in the case of dealing with narcotics crime, as well as how law enforcement is applied to children who commit narcotics crimes, especially in Wajo Regency, South Sulawesi Province.

METHOD

The writing of this article uses a statute approach.⁷ In this context, the provisions that will be examined and studied are several national legal instruments related to the crime of narcotics abuse and child protection.

² Hari Anti Narkoba Internasional: Peran Keluarga Penting Jauhkan Anak dari Lingkaran Hitam Narkoba, <https://www.kemenpppa.go.id/index.php/page/read/29/2747/hari-anti-narkotika-internasional-peran-keluarga-penting-jauhkan-anak-dari-lingkaran-hitam-narkotika>, accessed July 23, 2020

³ Puslidan BNN, "Penggunaan Narkotika di Kalangan Remaja Meningkat", <https://bnn.go.id/penggunaan-narkotika-kalangan-remaja-meningkat/>, accessed July 23, 2020

⁴ 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

⁵ Siswanto Sunarso, 2005, *Penegakan Hukum Psikitropika Dalam Kajian Sosiologi Hukum*, Jakarta, Raja Grafindo Persada, p. 6

⁶ M. Reza Pahlevi, Penghuni Lapas Di Wajo Didominasi Napi Narkotika, <https://makassar.sindonews.com/read/32713/4/penghuni-lapas-di-wajo-didominasi-napi-kasus-narkotika-1570533055>, accessed July 23, 2020

⁷ Peter Mahmud Marzuki, 2010, *Penelitian Hukum*, Jakarta, Kencana Prenada Media Group, p. 96

DISCUSSION

Protection of Children in Narcotics Crime in Indonesia

The main legal aspects regarding narcotics crime in Indonesia are contained in Law Number 35 Year 2009 concerning Narcotics. In addition, in an effort to eradicate drug trafficking in Indonesia, in 2015 the National Narcotics Agency (BNN) was established. Since its establishment, the National Narcotics Agency has become one of the agencies that has been aggressively making extraordinary efforts in tackling narcotics crimes in Indonesia, including preventive and repressive measures.

Narcotics in Indonesian positive law has a provision that:⁸

“Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semisynthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can lead to dependence, which are differentiated into groups as attached in this law.”

Drugs are divided into 3 types, namely Narcotics, Psychotropics and other addictive substances. Narcotics class I are the most dangerous narcotics. Very high addictive power. This group is used for research and science. Examples: marijuana, heroin, cocaine, morphine, and opium. Narcotics class II, are narcotics that have a strong addictive power, but are useful for treatment and research. Examples: pethidine, benzetidine, and betametadol. Narcotics class III, are narcotics that have mild addictive power, but are useful for treatment and research. Example: codeine and its derivatives.⁹

Psychotropics are non-narcotic substances or drugs, both natural and synthetic, which have psychoactive properties through a selective influence on the central nervous system that causes distinctive changes in normal activities and behavior. Psychotropics are further classified into 4 groups, namely: Group I psychotropics, which have very strong addictive power, their medicinal benefits are not yet known and are being studied for their efficacy. Examples: MDMA, LSD, STP, and ecstasy. Psychotropic group II, is a psychotropic with strong addictive power and is useful for treatment and research. Examples: amphetamine, methamphetamine, and methakualone. Psychotropic group III, is a psychotropic with moderate addictive power and is useful for treatment and research. Examples: lumibal, buprenorsina, and fleenitrazepam. Psychotropic group IV, is a psychotropic that has mild addictive power and is useful for medication and research. Examples: nitrazepam (BK, mogadon, dumolid) and diazepam.¹⁰

Other addictive substances are substances other than narcotics and psychotropic substances which can cause dependence on the user, including:¹¹

- a. Cigarettes
- b. A group of alcohol and other drinks that are intoxicating and addictive.
- c. Thiner and other substances, such as wood glue, liquid and acetone eraser, paint, gasoline which when inhaled can become intoxicating.

In Law Number 35 Year 2009 concerning Narcotics also regulates criminal acts. Actions against the law or *Straafbaarfeit* are defined as legal actions that have been carried out intentionally or unintentionally by someone who can be held accountable for their actions by law has been declared as punishable.¹² Actions that can be punished include the following article excerpt:¹³

1. Ownership
 - a. A person who owns a cannabis plant is jailed for 4 to 12 years (Article 111 paragraph (1)), while if he owns more than 1 kg of cannabis or 5 stems, he is jailed for 5 to 20 years (Article 111 paragraph (2)).
 - b. People who have inex, ecstasy, shabu, putau, heroin, cocaine are jailed for 4 to 12 years (Article 112 paragraph (1)), while if they have more than 5 grams, they are jailed for 5 to 20 years (Article 112 paragraph (2))
2. Producer
People who make drugs are jailed for 5 to 15 years (Article 113 paragraph (1)), while if people make drugs of more than 1 kg of marijuana or 5 grams of sex, ecstasy, crystal meth, putau, heroin, cocaine, jail for 5 to 20 years (Article 113 paragraph (2)).

⁸ Article 1 Number 1, Law Number 35 Year 2009 concerning Narcotics.

⁹ Damar Bastiar, *Penegakan Hukum Terhadap Penyalahgunaan dan Pencegahan Pengguna Narkotika di Indonesia*, *JURNAL RECHTENS*, Vol. 8, No. 2, December 2019, hal 212

¹⁰ *Ibid.*

¹¹ *Ibid.*, p. 212-213

¹² Evi Hartanti, 2008, *Tindak Pidana Korupsi Edisi ke Dua*, Jakarta, Sinar Grafika, p. 5

¹³ Nata Irawan, *et al*, 2018, *Awat Narkoba Masuk Desa Dalam Rangka Mewujudkan Desa Bersih Narkoba (Desa Bersinar)*, Jakarta, Deputi Bidang Pencegahan BNN Direktorat Advokasi, p. 16-18

3. Distributors
People who circulate drugs are jailed for 5 to 20 years (Article 114 paragraph (1)), while if it exceeds 1 kg or 5 sticks of marijuana and exceeds 5 grams of types of inex, ecstasy, crystal meth, putau, heroin, cocaine, it is punishable by death (Article 114 paragraph 2)).
4. Courier
People who are drug couriers are jailed 4 to 4 times. 12 years (Article 115 paragraph (1)), while temporary if it exceeds 1 kg or 5 sticks of marijuana and exceeds 5 grams of the type of inex, ecstasy, shabu, putau, heroin, cocaine, it is punishable by death (Article 115 paragraph (2)).
5. Users
People who use drugs are jailed for 1 to 4 years (Article 127 paragraph (1)).
6. Mandatory Report
 - a. Narcotics addicts and victims of narcotics abuse are required to undergo medical rehabilitation and social rehabilitation (Article 54).
 - b. Parents of adult and child addicts are required to report to the Puskesmas/Hospital/ Rehabilitation Institution (Article 55 paragraph (1) and (2)) in accordance with Minister of Health Regulation No. HK.02.02/Menkes/615/2016 concerning Recipient Institutions Obligatory to Report.
 - c. Parents or guardians of adult addicts and children who do not report are subject to 6 months imprisonment (Article 128 paragraph (1)).
 - d. Adult addicts must report to the Puskesmas/Hospital/Rehabilitation Institution (Article 55 paragraph (2)) in accordance with the Minister of Health Regulation No. HK.02.02/Menkes/615/2016 concerning Recipient Institutions Obligatory to Report.
 - e. Adult addicts who do not report are subject to 6 months imprisonment (Article 134 paragraph (1)).

The definition of a child who uses narcotics and a child who abuses narcotics has a different meaning, in relation to child delinquency behavior, it is explained that someone who is said to be a user is if the child is proven to only consume without any other investment, if the abuser then the child is consuming more than usual but is added by other actions, namely abusing illegal drugs both for himself and for others. Judging from the importance of determining children's boundaries in relation to children's behavior and handling, there are clear provisions regarding the lowest age limits for a person to be categorized as a child.¹⁴

Referring to the UN Convention on the Rights of the Child, the definition of a Child: "Child means every human being under the age of 18 years, unless according to the law that applies to children, maturity is reached earlier. For this reason, Law Number 23 of 2002 concerning Child Protection provides a definition of a child who is not yet 18 (eighteen years old), including children who are still in the womb.¹⁵

A child who is subject to a criminal offense for being a drug abuser will also be processed through the same laws and regulations even though the trial process is different from that of adults. This is related to the special protection provided to children by the state as mandated in Article 59 paragraph (1) and paragraph (2) of Law of the Republic of Indonesia Number 35 Year 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, as following:¹⁶

1. The government, local governments and other state institutions are obliged and responsible for providing special protection to children
2. Special Protection for Children as referred to in paragraph (1) is given to:
 - a. Child in emergency situations;
 - b. Children in conflict with the law;
 - c. Children from minority and isolated groups;
 - d. Children who are exploited economically and / or sexually;
 - e. Children who are victims of abuse of narcotics, alcohol, psychotropic substances and other addictive substances;
 - f. Children who are victims of pornography;

¹⁴ Mita Dwijayanti, Penetapan Diversi Terhadap Anak yang Terlibat Narkotika, *Perspektif Hukum*, Vol. 17 No. 2, November 2017, p. 207

¹⁵ M. Nasir Djamil, 2015, *Anak Bukan Untuk di Hukum: Catatan Pembahasan Undang-Undang Sistem Peradilan Pidana Anak*, Jakarta, Sinar Grafika, p. 10

¹⁶ Yuliana Primawardani, Arief Rianto Kurniawan, Pendekatan Humanis dalam Penanganan Anak Pelaku Tindak Pidana Penyalahgunaan Narkotika Studi Kasus di Provinsi Sulawesi Selatan, *Jurnal Penelitian Hukum DE JURE*, ISSN 1410-5632 Vol. 17 No. 4, December 2017, p. 413

- 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 terrorism networks.

The content mandated in this article means that special protection is given by the Government or other institutions to children who have problems or do not have a life like other children, including drug abusers.¹⁷ Settlement of cases for children has a difference because of the rights possessed by children. To safeguard special rights and uphold criminal regulations, the Indonesian government established a legal policy to protect and prosecute child criminal cases.¹⁸

The protection and best interests of the child are still prioritized in accordance with the spirit given in the Child Criminal Justice System Law (UU SPPA). Particularly for criminal acts committed by children, there is something called diversion, namely the transfer of settlement of children's cases from the criminal justice process to processes outside the criminal court. This diversion process is carried out through deliberations involving the child and their parents/guardians, the victim and/or their parents /guardians, community counselors, and professional social workers based on a restorative justice approach.¹⁹ Restorative justice is a new framework for responding to error and conflict that is rapidly gaining acceptance and support from educational, legal, social, and professional counseling workers and community groups.²⁰ The SPPA Law prioritizes the element of diversion or the transfer of criminal penalties at the level of examination, prosecution to trial for the suspect. This means that if the suspect in a drug case is a minor, it is possible that he will receive different sanctions, because the SPPA Law applies to him.²¹

The above illustrates that the law has provided space and special treatment for children who are in conflict with the law. Including if the child commits a criminal act in accordance with the provisions of the criminal act in Law Number 35 Year 2009 concerning Narcotics. The support of the state through regulations to provide special treatment for children in conflict with the law so that children can avoid a judicial process. This effort is taken so as not to create stigmatization of children who are faced with the law, so that children can return to the social environment naturally.

However, what needs to be paid attention is how the law enforcement can run optimally. The regulatory regime has indeed provided a special room for children who are dealing with the law. However, there are still gaps in its enforcement which could make the context of child protection stipulated in the law not working properly..

The Reality of Law Enforcement of the Crime of Narcotics Abuse by Children

Wajo Regency is one of the areas that has narcotics cases that need attention. Data shows²² in 2017 there were 70 narcotics cases in Wajo Regency handled by the Wajo Police, in 2018 there were 77 cases, in 2019 there were 83 cases, and in 2020 to July there were 34 cases. This data shows an increase from year to year in narcotics cases that have occurred in the Wajo Regency area. This increase also has the potential to involve children, both as perpetrators, victims, couriers, and so on, which can cause children to be classified as children in conflict with the law.

Looking at the national level, from several cases that have even become unruly decisions, there are times when children are in the status of witnesses and/or victims so that the Child Victims and/or Child Witnesses have not fully obtained their rights according to what is mandated in the SPPA Law. Namely the right to obtain legal protection and protection from the state.²³

In criminal convictions by judges on narcotics cases, there are many imprisonment or imprisonment penalties. Meanwhile in the current law, namely Law Number 35 Year 2009 concerning

¹⁷ *Ibid.*

¹⁸ Putu Vani Anidya Pramesti, I Ketut Rai Setiabudhi, Penegakan Hukum Terhadap Anak yang Melakukan Tindak Pidana Penyalahgunaan Narkotika di Wilayah Hukum Pengadilan Negeri Denpasar, *Jurnal Kertha Wicara*, Vol. 9 No. 5, 2020, p. 6

¹⁹ Tri Jata Ayu Pramesti, 2016, Perlindungan Hukum Bagi Anak yang Dijadikan Kurir Narkotika, <https://www.hukumonline.com/klinik/detail/ulasan/lt52f93ee68a431/perlindungan-hukum-bagi-anak-yang-dijadikan-kurir-narkotika/>, accessed July 23, 2020

²⁰ Andi Muhammad Aswin Anas, Ahsan Yunus, Kadarudin. Restorative Justice in Defamation Crime: Challenges And Obstacles in Information Disclosure Era. *JCR*. 2020; 7(19): 952-930. doi:10.31838/jcr.07.19.114, p. 927

²¹ Tri Jata Ayu Pramesti, *Loc. Cit.*

²² Yuyun Yustiana, Staf Balitbangda Propinsi Sulawesi Selatan, Interview 14 July 2020

²³ Mita Dwijayanti, *Loc. Cit.*, p. 205

Narcotics, it is stated that the rehabilitation of narcotics users is contained in article 54. Based on this article, rehabilitation can be carried out by government agencies or the community as regulated in ministerial regulations as well as Ministerial Regulations. Health of the Republic of Indonesia Number 2415/Menkes/Per/2011 concerning the Medical Rehabilitation of Addicts, Abusers, and Victims of Narcotics Abuse.²⁴

Law enforcement is an effort to bring the ideas of justice, legal certainty and social benefits into reality. So law enforcement is essentially a process of embodying ideas. Law enforcement is the process of carrying out efforts to uphold or function legal norms as a guide for actors in traffic or legal relations in public and state life.

Law enforcement is a meaningful work because it will be tied to the values that exist in the space where the law works. In the process, it will involve intellectual, emotional and even spiritual intelligence for the meaning of values. Law enforcement will then shift from being just a dead legal text to meaning and interpretation of values. So it is acceptable for some parties to judge that law enforcement will shift its meaning to upholding and supremacy of values.²⁵

As a systemic process, criminal law enforcement appears as the application of criminal law which involves various structural sub-systems in the form of police, prosecutors, courts and prisons, including of course legal advisory institutions. In this case, the application of the law must be viewed from 3 (three) dimensions, namely:

1. The application of law is seen as a normative system (normative system), namely the application of all legal rules that describe social values supported by criminal sanctions;
2. The application of law is seen as an administrative system that includes the interaction between various law enforcement officials who are the sub-system of the judiciary above;
3. The application of criminal law is a social system, in the sense that in defining a criminal act, various perspectives of thought that exist in society must also be taken into account.

In the process of law enforcement, law functions as a protection for human interests which must pay attention to 4 (four) elements, namely:²⁶

- a. Legal justice (*gerechtigheit*);
- b. Legal certainty (*rechtssicherheit*);
- c. Legal utility (*zweckmassigkeit*);
- d. Legal guarantee (*doelmatigkeit*).

Furthermore, regarding law enforcement efforts in narcotics cases in law enforcement efforts, several determining factors need to be considered. As stated by Soerjono Soekanto²⁷ The factors that can affect law enforcement are as follows:

1. Legal factors

In the practice of law enforcement in the field, there are times when there is a conflict between legal certainty and justice. This is because the conception of justice is an abstract formula, while legal certainty is a normative procedure. Therefore, a policy or action that is not completely based on law is something that can be justified as long as the policy or action is not against the law. So in essence, law enforcement does not only include law enforcement but also peace maintenance because law enforcement is actually a process of resolving the values of principles and real behavior patterns aimed at achieving peace;

2. Law Enforcement Factors

The legal function, mentality or personality of law enforcement officers play an important role. If the regulations are good but the quality of law enforcement officers is not good then there is a problem. Therefore, one of the keys to success in law enforcement is the mentality or personality of the law enforcer;

3. Supporting Facility or Facility Factor

Facility factors include software and hardware, one example of software is education. The education received by police law enforcers today, for example, tends to be of conventional practical matters so that in many cases the police experience obstacles in their objectives, including knowledge of computer crime. In special crimes that have been given authority to

²⁴ Reki K. Koropit, Penegakan Hukum Rehabilitasi Bagi Pengguna Narkotika Menurut Undangundang Nomor 35 Tahun 2009 Tentang Narkotika, *Lex Et Societatis* Vol. VII/No. 8/Ags/2019, p. 85

²⁵ Ufran, Penegakan Hukum Dalam Perspektif Hukum Progresif, *Perspektif Hukum*, Vol. 19, No. 2, November 2019, p. 205

²⁶ Ishaq, 2009, *Dasar-Dasar Ilmu Hukum*, Jakarta, Sinar Grafika, p. 43

²⁷ Soerjono Soekanto 2004, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, Bandung, Karya Nusantara, p. 42-43

the prosecutor, this is because technically the police are deemed incapable and not yet ready. Although it is also realized that the duties that the police must carry out are vast and numerous;

4. Community Factors

Law enforcers come from society and aim to achieve peace in society. Every member of the community or group at least has legal awareness, the problem that arises is the level of legal compliance, namely compliance with the law of the community towards the law, which is one indicator of the functioning of the law in question.

5. Cultural factors

Culture has a very large function for humans and society, which is to regulate people so that people can understand how they should act, act, and determine their attitudes when they relate to other people. Thus, culture is a main line of behavior that establishes rules about what to do, and what is prohibited.

Regarding law enforcement, Barda Nawawi Arief argues that law enforcement is to uphold the values of truth and justice. This means that law enforcers are trusted by the community to uphold the values of truth and justice contained in the law. Furthermore, Barda Nawawi Arief stated that efforts to combat crime with criminal law are essentially part of criminal law enforcement efforts, so it is often said that legal politics or criminal law policies are part of law enforcement policies.²⁸ Crime prevention in a criminological perspective emphasizes non-penal efforts which are divided into 2, namely pre-emptive and preventive and penal measures. This non-penal effort is taken in order to instill values and norms in society so that people can know what actions are categorized as crimes and do not commit them. Meanwhile, penal measures are taken to tackle crimes if they have occurred, including prosecution by the police.²⁹ In the context of crime prevention in Wajo Regency, narcotics crimes by children should be more emphasized through non-penal measures. Namely, including pre-emptive and preventive efforts. Preventing crime will be much better, because breaking the chain of crime is more effective and prevents children from confronting the law.

One of the non-penal efforts made to break the chain of drug crime in Wajo Regency is by conducting health advocacy. Advocacy carried out by the Wajo Regency Health Office by proposing financial assistance to the local government for drug extension activities in schools. Then the partnership made by the Health Office on drug control efforts by building collaboration with the police, schools, health centers and local governments. As well as empowerment carried out by health offices and puskesmas, by forming youth health cadres in schools as a form of student participation in combating drugs in Wajo Regency.³⁰

Efforts made by law enforcement officials, especially the police in tackling crimes of drug abuse in Wajo Regency, are in the form of pre-emptive efforts by providing education to the community and schools about narcotics, preventive efforts (prevention) by conducting police operations in the form of raids and regular patrols, repressive efforts (prosecution) aimed at providing a deterrent effect on narcotics criminals, and raids at detention centers to prevent the use of narcotics in remand centers.³¹

Referring to the above, law enforcement against narcotics crimes by children in Wajo Regency has been carried out through efforts to tackle crime both non-penal and penal. However, it is necessary to emphasize that in the context of child protection, which is regulated and the legal system in Indonesia, for children who are in conflict with the law, of course they must prioritize children's rights, especially for children who are in conflict with the law. This is because of the principle in the criminal law *lex specialis derogat legi generalis*.

The status of Law Number 11 Year 2012 concerning the Child Criminal Justice System is *lex specialis*. This means that the Narcotics Crime as regulated in Law Number 35 Year 2009 concerning Narcotics, if it involves children in it, actually accommodates the provisions of the SPPA Law as a regulatory guide in handling it. So that the context of child protection is still fulfilled and in line with the vision of child protection in accordance with the mandate of the constitution of the Republic of Indonesia. In addition, in the context of tackling criminal acts of abuse of narcotics by children in Wajo

²⁸ Barda Nawawi Arief, 2008, *Masalah Penegakan Hukum Pidana dalam Penanggulangan Kejahatan*, Jakarta, Kencana, p. 23

²⁹ Andi Muhammad Aswin Anas, Penanggulangan Tindak Pidana Pencemaran Nama Baik Melalui Media Sosial dalam Perspektif Kriminologi, *Al-Azhar Islamic Law Review*, Vol. 2 No. 2, July 2020, p. 92

³⁰ Rama Nur Kurniawan, Strategi Promosi Kesehatan Terhadap Upaya Penanggulangan Penyalahgunaan Narkotika, *Media Publikasi Promosi Kesehatan Indonesia (MPPKI)*, Vol. 1, Issue 1 January 2018, p. 23

³¹ Heriani, 2017, *Tinjauan Kriminologis Terhadap Kejahatan Penyalahgunaan Narkotika (Studi Kasus di Kepolisian Resort Kabupaten Wajo Tahun 2013-2016)*, Undergraduate Thesis, Department of Criminal Law, Faculty of Law, Hasanuddin University, Makassar, p. v

Regency. In fact, pre-emptive and preventive efforts should be maximized so as to prevent drug trafficking among children from an early age. Because it is more effective and more humane, so that children avoid the dangers of narcotics, in order to save the lives of the nation's future generations..

CONCLUSION

The law has provided space and special treatment for children who are in conflict with the law. Including if the child commits a criminal act in accordance with the provisions of the criminal act in Law Number 35 Year 2009 concerning Narcotics. The state exists through regulations to provide special treatment for children in conflict with the law so that children's rights are still fulfilled. Law enforcement of child narcotics abuse in Wajo Regency has been carried out through penal and non-penal efforts. In order for law enforcement to be more effective and humane, pre-emptive and preventive measures such as carrying out legal education activities for children must continue to be carried out. This is part of saving children as the next generation of the nation as mandated by the constitution of the Republic of Indonesia.

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