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# Child Exploitation within the Illicit Narcotics Trade, as Described by Doen Pleger\*

## Abstract

In addition to the right to growth and development, every child is entitled to protection against violence and discrimination. Three rights should be bestowed upon children. In this context, the right to survival entails attaining self-sufficiency from childhood to adulthood. The entitlement to mature and progress. Individuals have the right to protection against violence and discrimination, which entails being free from unkind or unjust treatment and being subjected to appropriate treatment. The objective of this research is to assess the impact on the daily lives of children in Sidenreng Rappang regency who are exploited as delivery personnel for the illegal trade of narcotics, According to the results of the study conducted in October 2021 – January 2022. The interview questions pertaining to drug usage in this study were guided by the observational approach. Because they do not deserve it, children should not be expected to bear the same level of responsibility as adults in criminal and civil matters. In contrast, children are the nation's most valuable resource and its future. Rehabilitation of drug users under the jurisdiction of the law narcotics should be reevaluated, as it not only imposes a significant financial burden on the state but is also frequently misconstrued in the policy of law enforcement.

**KEYWORDS:** child exploitation, criminal drug abuse, drug trafficking, and Doen Pleger

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# 1 | Introduction

International attention has long been paid to the issue of child exploitation in the drug trade. The exploitation of children in the global drug trade has emerged as one of the gravest risks to children's health, welfare, and rights, based on the United Nations' 2014 annual report on drugs and international crime. Children who work in the drug trade are frequently compelled to work as drug guards, dealers, or couriers, exposing them to a variety of hazards that might harm their health and safety. Children participating in illicit trafficking of narcotics are frequently the targets of violence, exploitation, and abuses of their human rights. Consequently, it is essential to have a criminal justice system that respects children's rights and needs. Principles of justice based on Pancasila ideals must be included in the juvenile criminal justice system<sup>[1]</sup>.

A 2015 study also found that the physical development and mental health of children are significantly impacted by child exploitation in the drug trade. According to research, children who participate in drug trafficking are more likely to experience interfering mental problems such as melancholy, anxiety, and PTSD. The risk of drug misuse and addiction is also quite high for children/kinder who are involved in drug trafficking<sup>[2]</sup>.

„Wisdom” can be found in society as well as on college campuses. Campuses must provide opportunities for students to learn from everyone and about everything, including social issues. Therefore, it is necessary to look for and gather local wisdom. The concept of this study is hence like a tit-for-tat in terms of social research, which is extremely specific about the law and variances in community behavior regarding the increasing rate of drugs in Indonesia, particularly in Sidenreng Rappang Regency, South Sulawesi. The actions of adults (both drug traffickers and dealers of illegal goods) who include youngsters in the trafficking of illegal drugs constitute the behavior of the community. This relates to philosophical (the national philosophy of life) and factual factors in the context of protection. Children's crime is a serious issue because, in addition to playing

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<sup>1</sup> Elaine Craig, „Child's Play or Sexual Abuse? Reviewing the Efficacy of the Justice Framework in Dealing with Child on Child Sexual Abuse in the United Kingdom” *Journal of Child Sexual Abuse*, 6 (2020): 734-48. <https://doi.org/10.1080/10538712.2020.1719448>.

<sup>2</sup> Charlotte Hunn, Caroline Spiranovic, Karen Gelb, *Why Internet Users' Perceptions of Viewing Child Exploitation Material Matter for Prevention Policies*, 2020, <https://doi.org/10.1177/0004865820903794>.

a vital role in their own lives and those of their families, they also play a crucial role in the future survival of the nation's next generation as the people who will rule the country and the state. This indicates that in the future, based on the findings of the study, talking about the environment in children's life is a very significant topic. The connection between child exploitation and illegal drug trafficking might be referred to as an issue that needs special attention<sup>[3]</sup>.

As was already established, the exploitation of minors in the drug trade is a very significant problem worldwide. According to the United Nations Annual Report on Drugs and International Crime, at least one in four victims of human trafficking are juveniles, and many are trafficked for exploitation in the drug trade<sup>[4]</sup>. According to research, adolescents involved in drug trafficking in Latin America often come from wealthy and impoverished homes that lack access to health care and educational resources<sup>[5]</sup>. An extensive study has been conducted to comprehend the underlying source of this issue and offer a workable remedy. Numerous studies have attempted to pinpoint risk factors, such as deprivation, domestic abuse, and a lack of educational and employment opportunities, that place children at risk of being exploited in the drug trade<sup>[6]</sup>. Other research aims to comprehend the psychological effects of drug trafficking on children, such as mental illnesses, substance abuse, or addiction<sup>[7]</sup>.

Using a multidimensional approach involving various parties, Pancasila justice-based reformulation of the criminal justice system for children involved in conflict and application of the value of legal benefits in reducing

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<sup>3</sup> Tammy J. Toney-Butler, Megan Ladd, Olivia Mittel, „Human Trafficking”, [in:] *Treasure Island* (FL, 2023).

<sup>4</sup> Charlotte M. Hunn, Helen Cockburn, Caroline Spiranovic, Jeremy Prichard, „Exploring the Educative Role of Judges' Sentencing Remarks: An Analysis of Remarks on Child Exploitation Material” *Psychiatry, Psychology and Law*, No. 6 (2019): 811-828.

<sup>5</sup> Mira Hitikasch, Hannah Lena Merdian, Todd Hogue, „Perceptions of Narrative Child Sexual Exploitation Material in a German Community Sample” *Sexual Offender Treatment*, No. 2 (2016): 1-13.

<sup>6</sup> Monique Anderson, Kate Parkinson, „Balancing Justice and Welfare Needs in Family Group Conferences for Children with Harmful Sexual Behavior: The HSB-FGC Framework” *Journal of Child Sexual Abuse*, No. 5 (2018): 490-509.

<sup>7</sup> Naiyi Sun, Benjamin E Steinberg, David Faraoni, Lisa Isaac, „Variability in Discharge Opioid Prescribing Practices for Children: A Historical Cohort Study” *Canadian Journal of Anaesthesia*, December (2021). <https://doi.org/10.1007/s12630-021-02160-6>.

drug use, including conflict and drug abuse. Pancasila is the cornerstone of principles focused on justice and the defense of children's rights in the reformulation of the criminal justice system for children. Both share the same viewpoint of defending the rights and interests of children and ensuring that they are equitably protected and given opportunities<sup>[8]</sup>.

Narcotics crimes have hit Indonesia, for example, in South Sulawesi, including the Sidenreng Rappang district, where many children are used as a medium to generate billions of dollars in profits for exploiters. In recent political developments in Indonesia, there is a perception that the younger generation has been corrupted in various ways. One way that appears empirically is that children are being used, invited, and provoked to dare to commit crimes, especially the crime of illegal drug trafficking. As a result, they no longer pay attention to or study the past of their nation in a historical order of high value. When a child is invited to be involved in a crime, it means that the child will lose a life guide that will be very important for him in the future. Evidently, before 2010, Sidenreng Rappang (Sidrap) was known as a *Santri* area, especially during the reign of Opu Sidik. However, during the reigns after that, especially the two following periods, this area changed its title from a rice barn to a narcotics barn. The *Santri* area has changed into Passobis area and Cakdoleng-doleng, as reported by Kompas and Fajar Daily. Based on a survey, the number of children involved in drug crimes has reached hundreds. There is a large-scale drug crime involving the exploitation of children. Based on these explanations, this research aims to analyze the extent to which the exploitation of children who are used as *doen pleger* in the illegal drug trade in Sidenreng Rappang Regency affects their daily lives.

This study is a socio-legal research, which is also used as a paradigm, namely a sociological approach and a juridical approach. The sociological approach is intended to study the behavioral tendencies of people's social life, especially the correlation between traffickers of teenage children and *doen pleger*, which is considered a narcotics crime. This is because the object called narcotics is a very new object known to the people in Sidrap, South Sulawesi. Illegal goods have become a trend among teenagers in recent years and have penetrated their social world. This is where the sociological approach comes in. As for the legal approach, this study attempts to

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<sup>8</sup> Batari Laskarwati, „Implementasi Nilai Kemanfaatan Hukum Dalam Pencegahan Penyalahgunaan Narkoba Melalui Lomba Keluarga Sadar Hukum (KADAR-KUM)” *Lex Scientia Law Review*, No. 1 (2018): 47-64.

examine it from a legal perspective; specifically, how well the general public is familiar with the laws that govern the regulations that are permissible or impermissible in the distribution of narcotics. What are the factors that influence drug dealers to disregard the morals associated with drugs and take advantage of teenagers? Similarly, from the perspective of law enforcement, this study examined, using a legal syllogism, what motivates young people in Sidrap to engage in illegal drug trafficking<sup>[9]</sup>.

The population of this study was teenagers who are involved in narcotics crimes as *doen pleger*, then they become couriers and/or users to dependency or victims in Sidrap Regency, which amounts to more than 100 children. A sample was attempted from three categories of adolescents, such as dealers, couriers, users, and victims. Seven children were used as a sample. Such a sample will be supported by the results of interviews with officials and the wider community. The sampling method used is convenience sampling because this sampling method is believed to have a higher level of validity while at the same time avoiding the influence of subjectivity on the data collection results. Thus, the results are as objective as possible<sup>[10]</sup>. This research used a combination of analytical methods, namely qualitative and quantitative analysis methods. The qualitative method was used as the main method because this research focused on describing the phenomenon of the rapid circulation of narcotics in South Sulawesi, especially in the Sidrap Regency. The phenomenon of the development of narcotics circulation is very unusual, especially among teenagers. Apart from that, this research is also based on case studies. Based on this, in order to deepen the research of the phenomenon of the spread of narcotics, a group discussion forum was conducted with the participation of several experts such as legal experts, sociologists and clergymen, as well as educators and educational staff<sup>[11]</sup>.

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<sup>9</sup> Daniel Winetsky, Aaron Fox, Ank Nijhawan, Josiah D Rich, „Treating Opioid Use Disorder and Related Infectious Diseases in the Criminal Justice System” *Infectious Disease Clinics of North America*, 3 (2020): 585-603. <https://doi.org/10.1016/j.idc.2020.06.012>.

<sup>10</sup> Michele M. Carr, Eric W Schaefer, Jane R Schubart, „Post-Tonsillectomy Outcomes in Children With and Without Narcotics Prescriptions” *Ear, Nose, & Throat Journal*, 2 (2021): 124-129. <https://doi.org/10.1177/0145561319859303>.

<sup>11</sup> Amir Sariaslan, Antti Kääriälä, Joonas Pitkänen, Hanna Remes, Mikko Aaltonen, Heikki Hiilamo, Pekka Martikainen, Seena Fazel. 2022. “Long-Term Health and Social Outcomes in Children and Adolescents Placed in Out-of-Home Care.” *JAMA Pediatrics*, 1 (2022): e214324. <https://doi.org/10.1001/jamapediatrics.2021.4324>.

The author conducted interviews with seven foster children as a sample at the Special Child Development Institute (LPKA) in Maros Prison on October 12, 2021. The seven children interviewed were 16-17 years old. Two of them are 16 years old and five others are 17 years old. The average level of education is high school (SMA/SMK). Sampling of children who are perpetrators of abuse and/or illegal drug dealing is done randomly. A summary of the interview results is presented in Table 1 below.

**Table 1**  
**Summary of Interview Result**

No	Name (Initial)	Age	Education	Get Involved From	Genesis	Place
1	Im	17	Senior High School	Junior High School	From friends	Gowa
2	Z	17	Vocational High School	Vocational High School	From friends	Maros
3	ly	16	Vocational High School	Junior High School	From friends & family	Sidrap
4	I	17	Senior High School	Junior High School	From friends	Sidrap
5	F	17	Senior High School	Junior High School	From family	Pare-pare
6	N	17	Senior High School	Junior High School	From friends & family	Makassar
7	D	17	Senior High School	Junior High School	From friends & family	Makassar

Data Source: LPKA Class II B Maros, October 2023

Table 1 shows that children who become involved in the illicit trade of different types of narcotics, including when they become users and dealers at the same time, almost all of them start when they are still in junior high school through friends and family. Five of them were introduced to drugs by their families. Only two did not have a family. But 100% of the time, for kids who are involved as users, drug couriers start from the mutual influence between friends.

In terms of school age, they first learned about drugs in junior high school. Only one person started after the first year of high school. This means that 92.3% of the children in South Sulawesi, estimated from five years ago to the present, have been familiar with shabu and powder narcotics since junior high school. Most of them are known and supported by their families. They know drugs directly as users and then become drug dealers. LPKA Class II Maros is a special place in South Sulawesi for fostering children for illicit trafficking and abuse of narcotics and illegal drugs. There were 50 children who came from different regions in South Sulawesi because of illegal trafficking and abuse of narcotics and illegal drugs. This is what Mr. R., a warden at the institute with the rank of a beam, said

when we asked him to help us gather information by conducting personal interviews with the seven children.

In general, the child does not know if the illegal act is a crime or is prohibited by law. What they do know is that they have done something fun and that they can get great economic benefits from it, even though there is a possibility of getting caught. When asked if they thought doing drugs made them want to fight or commit other crimes, the kids said they did not feel that way. In general, people prefer to avoid things that are criminal, violent, or of a similar nature. Researchers claim that the relationship between this mental state and cases of drinking is inverse.

## 2 | Effects of Narcotics on Physical and Mental Health

Narcotics come from the Greek word *narkon* which means „frozen and stiff”. In medical science, it is known as *narcose* or „narcicis”, meaning „anesthetize” Law No. 35 of 2009 on narcotics states that „Narcotics can only be used for the benefit of health services and/or scientific development”. Especially for the benefit of science, such as law and medicine, it should be supported by research results. In addition, research on the use of narcotics is also important with regard to the effects of narcotic abuse itself.

The participants in this study reported how they felt when they used the drugs, and the answer was similar. They felt joyful, sensual and calm after using it. Another effect was a feeling of fever and tightness in the chest. There was a feeling of stress related to financial problems. Besides, ecstasy pills as a form of drug also cause euphoria that lasts up to 12 (twelve) hours. The family continued to allow it, but there was only a reprimand. The environment influences the way of thinking. For example, even though they use drugs, they have no intention of committing violent acts such as fighting and the like.

For those who are accustomed to using drugs, the sensory and psychomotor systems are greatly affected [1]. But the most dominant of all reasons for the abuse and illicit trafficking of narcotics is the urge for economic gain. The economic pressure in question is that, in addition to obtaining a good profit, it is also necessary to repeatedly obtain illicit goods using online transactions. From the results of the analysis, it means that the legal awareness of the community still exists, but its compliance with the law

is very poor, if not completely lost. This is against the law, but the level of compliance is very low<sup>[12]</sup>.

From 2019 to 2021, there were 96% of adult drug cases in the Rappang District Court. There are 151 people per year who are caught and processed in conflict with the law. About 13 people per month are legally processed with sufficient evidence based on Article 183 of the Criminal Procedure Code. From the phenomenon of the community regarding the symptoms of the spread of illegal drugs in Sidrap, it can be estimated that there are many more that have not been detected. The indications come from the four sub-districts mentioned by Kalapas (the head of Sidrap Prison) or with the community term „closed cases”. Quantitatively, the data from the prisons and the data from the Sidrap District Court seem to be the same

## 2.1. Definition of exploitation

The term „exploitation” in the field of law has not been widely studied by social scientists. This term is generally used in engineering. For example, the exploitation of mining or plantation land. In short, this term is found only in the writings of the exact sciences. Meanwhile, in the field of social sciences, there is almost no legal knowledge. The term „exploitation” in the study of law is found only in criminal cases of trafficking in women and children, as well as in cases of prostitution or commercialization of sex, either online or not<sup>[13]</sup>.

In the book entitled *Legal Aspects of Trafficking in Persons in Indonesia*, it is stated, „Human trafficking made up the majority of women and children is a type of slavery in this modern era. It is a serious global problem and has become a global business that has provided great benefits to actors”. In 2005, the ILO Global Report on Forced Labor estimated that nearly 2.5 million people were exploited through human trafficking worldwide, and more than half of them were in the Asia-Pacific region, where 40% of them were children (US Department of Justice, Office of Foreign Cooperation Development, Assistance and Training and Office of the

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<sup>12</sup> Bastianto Nugroho, Daniel Susilo, „Problematika Penegakan Hukum (Law of Enforcement) Tindak Pidana Penyalahgunaan Naerkotika Di Wilayah Hukum Kota Surabaya” *Justitia Jurnal Hukum*, No. 2 (2018).

<sup>13</sup> *Protecting Children from Criminal Exploitation, Human Trafficking and Modern Slavery: An Addendum*, No. 180032, November 2018.



Indonesian Attorney's Training Center, Human Trafficking and Labor Law)<sup>[14]</sup>. As stated by ILO analysis, one of the causes of the exploitation of women and children was poverty. More dominant victims are women and children because they are often to be targeted and considered the most vulnerable. In Dutch, it is called „de exploitatie van arbeiders” which means utilization, exploitation. Such meanings according to the ILO that exploitation leads to economic benefits for those who carry out the exploitation and it is economically provoking to the children involved<sup>[15]</sup>.

Child Protection explained that „Exploitation treatment, for example, is the act or treatment of using, exploiting, or extorting children to obtain personal, family, or group benefits”<sup>[16]</sup>. Economic exploitation means an act, with or without the consent of the child victim, which includes, but is not limited to, prostitution, forced labor or services, slavery or practices similar to slavery, oppression, extortion, exploitation of the sexual, physical or reproductive organs or unlawful transfer or transplantation of organs and/or body tissues, or the use of the child's power or ability by other parties to obtain material benefits. This means that the provisions of this article can already be imposed on those who exploit a child, whether or not the child has consented. While „sexual exploitation” of children includes all forms of use of other bodily organs for profit, including but not limited to all activities of prostitution and obscenity<sup>[17]</sup>.

Based on the Law of the Republic of Indonesia Number: 10 of 2012 concerning Ratification of the Optional Protocol to the Convention on the Rights of the Child Regarding the Trafficking of Children, Child Prostitution, and Child Pornography, it is very clear in paragraphs a and b, that: children have the right to be protected from economic exploitation and work in jobs

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<sup>14</sup> Geri L. Dimas, Renata A. Konrad, Kayse Lee, Maass, Andrew C. Trapp, „Operations Research and Analytics to Combat Human Trafficking: A Systematic Review of Academic Literature” *Plos One*, August (2022): 1-24.

<sup>15</sup> Lemma Derseh Gezie, Alemayehu Worku Yalew, Yigzaw Kebede Gete, Telake Azale, Tilman Brand, „Socio-Economic, Trafficking Exposures and Mental Health Symptoms of Human Trafficking Returnees in Ethiopia: Using a Generalized Structural Equation Modelling” *International Journal of Mental Health Systems* Vol. 12 (2018): 1-13.

<sup>16</sup> Vishwendra Singh, Gurvanit Lehl, „Child Abuse and the Role of a Dentist in Its Identification, Prevention and Protection: A Literature Review” *Dental Research Journal*, No. 3 (2020)

<sup>17</sup> Joanne Csete, Adeeba Kamarulzaman, Michel Kazatchkine, Frederick Altice, Marek Balicki, Julia Buxton, Javier Cepeda, et al. 2017. „HHS Public Access” *Lancet*, 387 (2017): 1427-1480. [https://doi.org/10.1016/S0140-6736\(16\)00619-X](https://doi.org/10.1016/S0140-6736(16)00619-X). Public.

that endanger or interfere with the child's education, damage the child's physical, mental, spiritual, moral, and social development health. These activities are crimes against humanity that must be eradicated<sup>[18]</sup>.

„Everyone is prohibited from placing, allowing, committing, ordering to commit or participating in violence against children [...]”. The question is, „ordering children to participate” means a person who orders to abuse another person (*doen pleger*) in the illicit trafficking of narcotics is classified as a sense of violence or not. To find that out, we must explore the juridical notion of violence itself. The notion of violence has undergone a development of understanding, which is no longer limited to the understanding as regulated in the Criminal Code, but the notion of violence is also included in the psychological sense as regulated in Act No. 23/2004 on Domestic Violence<sup>[19]</sup>. Domestic violence is now classified as a criminal act and related to Law Number: 35/2014 as an amendment to Law No. 23 of 2002 concerning Child Protection<sup>[20]</sup>.

## 2.2. Children in accordance with the legal science

Different legal texts define a child differently. For example, in Islamic law, children are defined as those between the ages of 7 and 13. Using another parameter, if a girl has her period and a boy has a wet dream, they are no longer called children. Those under the age of seven are called children and minors are those who are under 16 years of age and unmarried. If a minor is prosecuted for an act committed when he or she was under 16, the judge may order that the guilt be returned to his or her parents, guardian or custodian, without punishment; or order that the guilt be surrendered to the Government, without punishment, if the act is part of a crime or one of the offenses described in the articles. According to WHO, a child is

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<sup>18</sup> Paul N. Goldwater, „Iatrogenic Blood-Borne Viral Infections in Refugee Children from War and Transition Zones” *Emerging Infectious Diseases*, 6 (2013): 892-898. <https://doi.org/10.3201/eid1906.120806>.

<sup>19</sup> Sanaa Mohamed Aly, Ahmed Omran, Jean-Michel Gaulier, Delphine Allorge, „Substance Abuse among Children” *Archives de Pédiatrie*, 8 (2022): 480-484

<sup>20</sup> R.I. Kemensesneg, „Undang - Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang - Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak” *UU Perlindungan Anak*, 48 (2014) <https://peraturan.bpk.go.id/Home/Details/38723/uu-no-35-tahun-2014>.

counted from the time a person is in the womb until the age of 19. This is based on the 1989 United Nations Convention on the Rights of the Child.

According to the United Nations Convention on the Rights of the Child adopted on November 20th, 1989 to which Indonesia is a party, Article 1 states, „For use in the current Convention, a child means any human being under eighteen years old, unless, under applicable law for children, maturity has been reached sooner”<sup>[21]</sup>. Thus, in Law No. 23 of 2002, there are at least six things in which children must obtain protection. One of them is the prohibition of exploitation, both economic and sexual<sup>[22]</sup>.

### 2.3. Doen Pleger – Medeplichtige

There are four criteria for people who commit acts related to criminal acts which are commonly referred to as „participation in criminal offense”, which refers to criminal acts that are intended to be both activities and violations in KUHP. In this case, there are 4 (four) criteria for people who commit crimes. The four criteria are as follows<sup>[23]</sup>:

- a. People who do (*pleger*). This person is a person who does all the elements or elements of a criminal event alone. For example, in a criminal event that is committed „in the office”, this person must also fulfill the element of „status as a public official”.
- b. The person who ordered to do (*doen pleger*). There are at least two persons, the one who ordered and the one who received the order. So it is not the person himself who commits the crime, but the person who orders other people. Despite this, he is still seen and punished as a man who did it himself.
- c. People who participate in doing (*medepleger*). „To do” in the sense of doing together. In this context, there are at least two people, namely people who do (*pleger*) and people who participate in doing (*medepleger*). These people together realize the elements of the crime, not

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<sup>21</sup> R. Subekti, *Kitab Undang-Undang Hukum Perdata* (Jakarta: Pradnya Paramita, 1984), LN. 31–54.

<sup>22</sup> Eithne Downs, „Children Born of Sexual and Gender-Based Violence in Conflict: The International Criminal Court, Ecological Environments and Human Development” *Children & Society*, No. 3 (2019): 226–238.

<sup>23</sup> A.K. Ahmad, N. Fadhilah, *Penelitian Kualitatif Filosofi dan Praksis* (Yogyakarta, 2021).

including people who only help or do preparatory actions. Helpers are not included as *medepleger*. However, they are punished as aiding and abetting (*medeplichtig*), as regulated in Article 56 of the Criminal Code. However, this article is not possible for children, because the offense referred to in this article only relates to the *amtenar delicten*.

A person who, by giving, misusing power, using force, etc., deliberately induces others to do that act (*uitlokker*). The person must deliberately persuade others, and the persuasion must be by giving, misusing power, etc. It is not allowed to use any other way than the intended way.

### 3 | Juvenile justice system according to the Criminal Code

The person who does an act that cannot be accounted for because he is imperfect in his brain (sick) should not be punished. Imperfection in this case is the form of the power of the mind, the power of thinking, and the intelligence of the mind. In Dutch, it is called *verstandelijke vermogens*, or *geest vermogens* which means the power of the soul. It is also when pain changes someone's mind (*Ziekelijke storng der verstandelijke vermogens*) such as madness and others<sup>[24]</sup>. People who are drunk from drinking alcohol are not included here. Nevertheless, the investigators must still examine them by making a verbal process, and later the judge's decision will determine what the decision will be.

If a minor is prosecuted for an act committed when he was under sixteen years of age, the judge may order that the guilty party be returned to his parents or guardian without being subject to any punishment, or order that the guilty party be handed over to the Government without being subject to any punishment, i.e. if the act is part of a crime or one of the described offenses and the act was committed before two years after the previous decision establishing the error or punishing the guilty child<sup>[25]</sup>.

<sup>24</sup> Kamri Ahmad, *Pengantar Hukum Indonesia*, (Makassar: Umithoha Press, 2019).

<sup>25</sup> Kamri Ahmad, Hambali Thalib, Mursyid Muchtra, „The State's Economic Protection by the Criminal Justice System Corruption: A Case Study” *UNIMMA*

Based on the previous explanation, children who commit crimes or violations can be punished. However, it depends on the legal considerations of the judge who conducts the trial. There are two criteria for punishment. First, they must be immature at the time of committing the act. Second, the prosecution of a criminal case is for a person who committed the crime but is under the age of 16. The question then arises, what is the difference between the understanding of a minor and that of a person under the age of 16? Problems like this should be reviewed after there is direct data to follow. The Criminal Code relates to *tempus delictie*. If both conditions are met, the judge will decide on one of the following three options

- a. The child is returned to their parents without being subject to any punishment.
- b. The child is made a child of the state, meaning that he is not sentenced, but is handed over to the *Rumah Pendidikan Anak Nakal* to be educated by the state until he/she reaches the age of 18.
- c. The child is sentenced as usual, if the threat of punishment is reduced by one-third of the primary penalty.

## 4 | Discussion

In his book *The Political Criminal: The Problem of Morality and Crime*, Stephen Schafer states: „Despite a legion of theories about the crime problem, crime is increasing with us. In analyzing laws that are criminally violated, most theories contrast crime with justice, many of them contrast with morality, but very few seek to explore the relationships between justice and morality in crime”. In the analysis of criminally violated laws, most theories contradict crime and justice, and many of them contradict morality, but very few explain the relationship between justice and morality in crime.

For the sake of the survival of school-age children, the drug crimes (including abuse and illegal trafficking) that occurred in the Rappang District between 2018 and 2021 were very concerning. What Stephen Schafer described as a crime that transpired is getting worse along with us. Drug-related crime is all around us (read: illicit traffic of narcotics).

If there is circulation of illicit goods, it means there is a local dealer, as well as narcotics abuse. Especially in the four sub-districts mentioned by the Sidrap Chief of Staff, the sub-districts in question are Baranti, Panca Rijang, Maritengngae, and Duapitue/Tanru Tedong District. This is proven by the number of narcotics cases handled by the Sidrap District Court reaching 453 cases until 2021. Such a phenomenon is very dangerous for all levels of society, especially children of school age considering that many children are involved or involved in acts of exploitation in the form of *doen pleger*.

Children are exploited by inviting them to sell, delivering them to people they do not know, or ordering them to take or buy the illicit goods at a certain place that has been indicated by the exploiter with a certain code that the children do not understand. The exploiter's invitation is first given or determined to be rewarded to the children in an amount of money sufficient for them. However, it appears that there is already a waiting liaison (legal apparatus) when the youngster has delivered the intended things to the specified location. When they arrived at their destination, the watchman was ready to wait for none other than the law enforcement officers, so that the child will be caught red-handed. In the next process, they will also be the negotiators for the child's parents. The goal is for the child's parents to be informed whether the case has been resolved or if there is some other type of agreement, such as a promise to reduce the threat of punishment with a note that certain agreements must be met, after learning that their child has been prosecuted for being arrested for carrying drugs. As a result, awareness and obedience to the law are buried by themselves.

When a child is taken into custody, it is time to contact the parents to find out what to do next. Negotiation then takes place, whether in the form of „article buyer”, as the name has come to be known among those who have gone through it, or „closed case”, which is a phrase consistently used by the community. If only the buyer of the product (the provisions of the article will be imposed on the child), the negotiator will only guarantee a reduction of the penalty when the case is heard in court by the judge. However, if a „closed case” is chosen – even if it is only a promise – the case will not go to the next stage of the judicial system. This is determined by the negotiator as part of the agreement.

As a result, two different avenues of child exploitation work together in the illegal distribution of drugs. First, although they are among the main traffickers of children, they are in contact through cell phones, even though they are strangers. They are then exploited as couriers. Second, the method of treatment resembles planned blackmail because it is repeated

by some schoolchildren. It is estimated that those who are 19 years old or younger and already experienced will, in time, have the courage to import drugs on a large scale and engage in trafficking of drugs weighing up to hundreds of kilograms, like the two young men from Baranti who were arrested during the month of Ramadhan (between April and May) in 2021 and then shot in the district of Bone. One died and it was not known where the other was taken. Some claim that they were transported to Jakarta, but this is currently unknown.

According to a formal legal perspective on the issue of illegal trafficking and drug abuse in the Sidrap region, there are several legal institutions and regulations (including legislation) related to the life of children. For example, Law No. 12 of 1948 states that the government prohibits children from working under any circumstances. Although criminal penalties have strengthened the rule, it is still impossible to adequately enforce the restriction. At the normative level, the ineffectiveness is partly caused by the ambivalent attitude or indifference of the government itself<sup>[26]</sup>. What we refer to as a disregard for and non-compliance with local laws. In the element of a crime, it is called *mens rea*.

Sudaryono's statement seemed to justify what happened in Sidrap Regency regarding the illicit trafficking of Narcotics. It seems that the state and government are not present, even though the situation is quite worrying for the survival of school-age children. Let's compare Sudaryono's statement with someone who gets lost in the forest or someone who drowns in a river or at sea.

Viewed from the point of view of crime and sentence, Brian Hogan and J.C. Smith in *Criminal Law* (6<sup>th</sup> edition, 1988), stated that, „The traditional attitude of the common lawyers is that a crime is essentially a moral wrong”. The doctrine of *mens rea* is based on the assumption that blameworthy intention is required<sup>[27]</sup>. Other laws and regulations that regulate the life of children, namely Law No. 23 of 2002 Jo. Law No. 35 of 2014 on Child Protection, Convention on the Rights of the Child, Law No. 10 of 2012 on Ratification of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. Also included here is Law Number: 11 of 2012 concerning the Juvenile Justice

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<sup>26</sup> *Hak Asasi Manusia, Hakikat, Konsep dan Implikasinya Dalam Perspektif Hukum dan Masyarakat* (Bandung: Aditama, 2007), 203.

<sup>27</sup> B. Hogan, J.C. Smith, *Criminal Law (sixth edition)* (Chatham: Mackayes of Chatham PLC, 1988), 4.



System. Law Number: 02 of 2002 concerning the Indonesian National Police, Law Number: 8 of 2010 concerning Money Laundering Jo. Law No. 3 of 2011 concerning the transfer of funds. All the above mentioned laws are directly or indirectly related to the crime of narcotics and children.

From the empirical side, Rahardjo describes very accurately, that „law enforcement always involves humans in it and involves human behavior”. The law cannot be enforced by itself, which means that the law is not capable of realizing the promises and wills contained in the law. The promise and will, for example, to give rights to someone, to impose a penalty on someone who meets certain requirements. In this context, the law is not autonomous, but must be carried out by people as representatives of the state or as part of the state itself. This is in line with Rahardjo’s view that the method commonly referred to as normative-dogmatic departs from the requirements stated in legal regulations and accepts them as reality. Thus, the human order is ignored in his speech<sup>[28]</sup>. The author does not see that the requirements of the normative-dogmatic method are consistent from this point on. We can consider, for example, the term „article buyer” or „closed case”. Here, Sidrap Regency has been included in the category of „black market for narcotics” as stated by the Minister of Law and Human Rights, Yasonna Laolly. His statement on one of the private TV stations mentioned „if a place has a dealer, a dealer and there are drug users, it is called a black market”.

What is described by Rahardjo and Parsons (1951) calls it a relational scheme or the structure of the system of actions. Durkheim calls it reciprocations. The structure of the action system according to Parsons as described by Rahardjo, consists of (1) the perpetrator of the act itself, (2) his interaction with other people, and (3) cultural patterns. The qualitative social theories of Parson and Rahardjo are similar and congruent with the narcotics illicit trafficking incident in Sidrap which involved children as *doen plegers*. According to Parsons, something is still missing from the theoretical relational scheme or the structure of the action system, namely „the community’s attitude towards the content of the applicable legal rules according to the normative-dogmatic method, which has a significant effect”, i.e. attitudes towards awareness and obedience

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<sup>28</sup> Amy L. Wilson, Cathy Nguyen, Svetlana Bogomolova, Byron Sharp, Timothy Olds, „Analysing How Physical Activity Competes: A Cross-Disciplinary Application of the Duplication of Behaviour Law” *International Journal of Behavioral Nutrition and Physical Activity*, Vol. XVI (2019): 1-13.



to the law of society. Since this is where the dogmatic imperatives can be recognized, the Parsonian theory of the structure of the system of action must also include „people’s attitudes toward the substance of the rule of law”. Regardless of the size of the village community or the number of law enforcement personnel, this is one of the conclusions of the study. This happens when individualistic profit interests override collectivism as the primary objective of the rule of law in society.

It turns out that qualitative empirical studies can provide strengthening justification for normative studies that are more quantitative in nature. To make the author’s intent clear, children are exploited in the form of *doen pleger*, which indicates that not all groups, including parents, the community, and law enforcement officials, particularly those who exploit the child, are aware of the lost child’s rights. Almost everywhere, people evade their responsibilities and children’s rights.

Regarding the amendments to the Law No. 23 of 2002 on Child Protection, it is explicitly stated that „The State, Government, Regional Government, Community, Family, and Parents or Guardians are obliged and responsible for the implementation of Child protection”. Likewise, „The State, Government, and Regional Government are obliged and responsible for respecting the fulfillment of children’s rights without distinguishing ethnicity, religion, race, class, gender, ethnicity, culture and language, legal status, birth order, and physical, and/or mental condition”.

## 5 | Conclusion

The above explanation leads to the conclusion that children involved in the illegal drug trade in Sidrap district are not aware that they are being exploited. The school-age children are content to be exploited (*doen pleger*), even if they were initially unaware of the risks associated with their actions. This is because, despite the sacrifices they make, such as missing school, they only seek financial rewards. The children engaged in the illicit trafficking of narcotics did not recognize the alleged traffickers, who have been working together since the beginning, as those who were taking advantage of them.

Similarly, the parents of these children were unaware that their children were being used as media in the illegal drug trade, endangering the future

of their social lives. They typically believed that the impact on exploited children's daily lives was neither harmful to them nor to other people. They were happy because they received money, which was considered quite valuable according to their view, but they loathed conflict and actively avoided it. The idea is then made that it is crucial to conduct outreach in schools that involve parents and kids. This counseling is important to provide them with an understanding of drug abuse, both from a legal perspective and from a physical and mental health perspective. In addition, Law No. 35/2009 on Narcotics needs to be reviewed with regard to the rehabilitation of users, as it not only represents a great economic burden for the state, but also tends to be misinterpreted in the policy of implementing the law.

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