

## Unveiling the Controversy: Legal Analysis of Juvenile Narcotics Use for Medical Purposes

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### ABSTRACT

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**Purpose of the study:** This research aimed to fill gap by detailing the arguments around legal responsibility of juvenile narcotics use that are not intended for recreational purposes, but rather for medical purposes. This seeks to contribute to the growing literature on restorative justice in Indonesia, particularly for the development of the juvenile justice system.

**Methodology:** This study examined the phenomenon of narcotics uses in the self-medication context, particularly among youth, utilizing the normative legal research method and bolstered by a case study (Judicial Decision). It also utilized the statutory approach, which involved an in-depth analysis of applicable legal provisions regarding juvenile crimes and narcotics.

**Results:** While conceptual analysis found that there are many connections between the emerging trend of self-diagnosis and self-medication with narcotics use among children, yet the normative support to deal with this phenomenon through restorative justice remains poor. The impact of the lack of normative support is shown in the judicial decision, in which restorative justice through the application of diversion was applied incautiously, blurring children's well-being; disturbed by medical issue at first and later worsened by marijuana addiction.

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**Applications of this study:** The study can be an instrumental reference in guiding legal reforms, shaping healthcare policies for juvenile narcotic use, and providing information on educational and awareness programs that distinguish between medical and non-medical use of narcotics by minors.

**Novelty/Originality of this study:** The originality of this study lies in its specific accent on the intersection of juvenile law, narcotics use, and medical treatment, which is a relatively underexplored area in legal research in Indonesia. It is also found in its analysis of a decision of a juvenile court regarding the use and possession of narcotics.

**Keywords:** *Legal Responsibility, Medical Purposes, Narcotics Crime, Restorative Justice, Case Study*

### **ABSTRAK**

**Tujuan:** Penelitian ini bertujuan untuk mengisi kesenjangan dengan menjelaskan argumen seputar tanggung jawab hukum penggunaan narkoba oleh anak di bawah umur yang tidak dimaksudkan untuk tujuan rekreasi, melainkan untuk tujuan medis. Penelitian ini juga dilakukan untuk berkontribusi terhadap berkembangnya literatur mengenai keadilan restoratif di Indonesia, khususnya untuk pengembangan sistem peradilan anak.

**Metodologi:** Studi ini mengkaji fenomena penggunaan narkoba dalam konteks swamedikasi, terutama di kalangan anak-anak, dengan menggunakan metode penelitian hukum normatif yang didukung oleh studi kasus (Putusan Pengadilan). Studi ini juga menggunakan pendekatan undang-undang, yang melibatkan analisis mendalam terhadap ketentuan hukum yang ada mengenai tindak pidana remaja dan narkoba.

**Temuan:** Analisis konseptual menunjukkan bahwa meskipun terdapat banyak keterkaitan antara tren berkembangnya swadiagnosis dan swamedikasi dengan penggunaan narkoba di kalangan anak-anak, dukungan normatif untuk mengatasi fenomena ini melalui keadilan restoratif masih kurang. Dampak dari kurangnya dukungan normatif ini terlihat dalam putusan pengadilan di mana keadilan restoratif melalui penerapan diversifikasi diterapkan dengan tergesa-gesa, tanpa fokus pada kesejahteraan anak, yang awalnya terganggu oleh masalah medisnya dan kemudian memburuk akibat kecanduan ganja.

**Kegunaan:** Studi ini dapat menjadi referensi penting dalam reformasi hukum, membentuk kebijakan kesehatan yang berkaitan dengan penggunaan narkoba pada anak, dan menginformasikan program pendidikan dan kesadaran yang membedakan antara penggunaan narkoba untuk tujuan medis dan non-medis oleh anak di bawah umur.

**Kebaruan/Orisinalitas:** Orisinalitas penelitian ini terletak pada fokus spesifiknya pada titik temu antara hukum peradilan anak, penggunaan narkoba, dan perawatan medis, yang merupakan area yang kurang

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*dieksplorasi dalam penelitian IndonesiaIndonesia. Orisinalitas juga terletak pada analisisnya terhadap putusan pengadilan anak mengenai penggunaan dan kepemilikan narkoba.*

**Kata Kunci:** *Tanggung Jawab Hukum, Tujuan Medis, Kejahatan Narkoba, Keadilan Restoratif, Studi Kasus*

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## INTRODUCTION

Children are the future of every country, hence the constant effort from national and international organizations is required to protect the growth of every child through various ways and to make sure that their rights are protected by the law (Alhakim, 2022; Golić & Logarušić, 2023). Children are commonly believed to be innocent and energetic, with innocence accompanied by compassion and vulnerability, which are attributes of children themselves (Ticktin, 2017). Unfortunately, the reality is often ugly. Many children are living in a troubled environment that allows various misdemeanors stemming from moral disengagement (Moore, 2015). One of the worst events that could happen to children in their development stage regardless environment they're growing in is the involvement of crime. Crimes not only affect the perspectives that children have but also force them to face the legal consequences of their actions. It can certainly be a learning process, but can also aggravate the underlying issues that they possess. Many prevailing issues within the criminal justice system may create heightened dangers when faced with juvenile criminals (Feld, 2018). Furthermore, persistent societal issues that are putting children in disadvantageous positions can also affect the criminal justice system, such as the lack of care for children's welfare (Goshe, 2015).

Narcotics have always been an issue in different parts of the world, including Indonesia. The shifting towards a punitive approach to punishing criminals in the narcotics world is preferred in Indonesia, which also elevated the popularity of President Jokowi's administration, thanks to its tough-on-narcotics-crimes approach (Lasco, 2020). However, with the rise of digital information and the wealth of information within the reach of children, narcotics use can now be attributed to medical reasons (Agarwal et al., 2021). Unfortunately, such medical reasons are frequently not legally acceptable as it is issued by non-professional medical doctors (Wallis et al., 2022). Issues like sleep problems or trouble focusing are researched mostly by teenage users by simply browsing through search engines, which eventually leads them to medications that can only be legally accessed under a doctor's prescription. This prompts

teenagers with no access to medical care to seek alternatives, namely buying individually researched medications illegally in order to treat their self-diagnosed health problems (Pedersen et al., 2015). The use of narcotics for conventional purposes has become more common in some places around the world and has even seen less stigmatization from society.

The effort to deal with crimes committed by juveniles is none other than the efforts to deal with crimes committed by adults, as they require a complex approach to guarantee that minors can recover from their own mistakes and return to society as fully functional individuals (Auspitz, 2018). The cases are conducted in a juvenile court, where judges are assigned to deal privately. One of the ways to deal with juvenile crimes is through the restorative justice method, which heavily points out the impacts of the crime and how to mediate them with the interests of both victims and perpetrators in mind (Suzuki & Wood, 2018). It is rather popular within the juvenile justice system as it opens up more chances for juvenile perpetrators to not only be responsible for their criminal acts but also grow through it and simultaneously understand the sufferings they have caused their victims (McMahon & Pederson, 2020).

It is necessary to facilitate such legal methods in many proceedings of juvenile courts, to ensure that it always remains an option that the court can choose, without sacrificing the purpose of legal proceedings which is to eventually punish criminals and uphold the sense of justice within the people. This is reinforced in Indonesia by Law No. 11 of 2012 on the Juvenile Justice System, which is primarily used as the legal source for juvenile criminal court proceedings (Dewantary, 2016). The prime approach for restorative justice within the Indonesian legal system is diversion, which enables the settlement of juvenile criminal cases out-of-court, to enable a more efficient environment for hearings between the victims and perpetrators, to agree on how to deal with the case (Ariani, 2014). If an agreement cannot be reached through diversion, the legal proceeding can return to the juvenile court, which also indicates flexibility. Restorative justice is particularly pertinent for juvenile delinquency, who do not intend to break the law but are rather confused about how to deal with their problems. It has become more relevant in the case of crimes by minors that are only self-harming in nature and do not victimize anyone else (Frampton, 2018). Such is the case of narcotics used for medical purposes that are not prescribed by any medical professionals.

Narcotics use has long been a well-researched academic field, both from the medical and the legal standpoint. With rising problems such as addictions and even gang-related crimes, narcotics use has been deemed one of the biggest threats to society, with politicians and

lawmakers pushing for stronger approaches to deal with these issues (Fagan, 2017). Narcotics have also been associated with an epidemic, especially when the use of certain medications that are for health problems treatment is widespread with little to no control from medical professionals (Saha et al., 2016). For adolescents, the use of narcotics has been connected to serious problems that could damage the cognitive growth of youth, posing significant possible long-term issues (Guerri & Pascual, 2019). However, some countries in the West have recently pushed for the legalization of many banned substances in order to lower the problems related to drug abuse (Shepard & Blackley, 2016).

There's no consensus to date on which is the best way to deal with drug abuse issues, especially when the abuser is not even reaching adulthood. It is specifically difficult to decide the measure when drug abuse is concentrated in a certain area or is related to other issues such as drug dealing and related violent crimes (Fast et al., 2017). In Indonesia, there has been a significant rise in narcotics cases with more diverse patterns and even wider syndicate networks (Amanda et al., 2017). Furthermore, although the trend of self-medication using illegal drugs to be possessed by anyone without a doctor's prescription is not as extensive as it is in Western countries, Indonesia does have a trend of self-medicating and self-diagnosing, particularly among students, mainly for the same purposes as other findings in western countries (Ariyanti et al., 2018). Even more dangerous risk is the possibility of using illegal medications even for medical purposes, which indicates serious health risks. Risks associated with this behavior among underage children can be established by analyzing the rise of internet usage in their age group, which is also linked to other mental problems (Parwatha et al., 2019) that can affect the likelihood of drug abuse (Nemati & Matlabi, 2017). There is a significant gap in analyzing the legal consequences regarding the trend of self-medication, particularly in Indonesia. Given the rise of internet usage among children, this trend becomes even more relevant, which calls for a serious academic investigation. This research aimed to fill these missing points by detailing the arguments around the legal responsibility of juvenile narcotics use that are not intended for recreational purposes, but rather for medical purposes.

## **RESEARCH METHOD**

This research utilized the normative legal research method by analyzing the existing positive laws in Indonesia (Disemadi, 2022). It also employed the case study and statutory approach by connecting the existing normative values within the Indonesian legal system and their implementation before the court of law. The case study approach was utilized to provide detailed insights into a real case and the decision of the juvenile court along with detailed information to support the analysis (Assyakurrohim et al., 2022). Data used in this research were secondary data in the form of court judgments and primary law sources. The judgment used in this research was one No. 26/Pid.Sus-Anak/2016/PN.Dps and the primary law sources used were Act No. 35 of 2009 on Narcotics and Act No. 11 of 2012 on the Juvenile Justice System.

## **RESULTS & DISCUSSION**

### **Overview of Narcotics Crime in Indonesia**

Internationally, narcotics distribution is not widely considered an extraordinary crime, even though it is considered one of the most problematic ones. This is due to the dangerous nature of its impacts on health and its close relations to large-scale organized crimes. Narcotics can even be used by sanctioned states to survive by sustaining their falling sanctioned-hit economies (Hastings, 2015). Although unofficially, this paradigm indicates the lucrative scheme of narcotics crime, for serious examples, Mexico and El Salvador still suffer after decades from gruesome drug wars with high numbers of casualties and worsening systemic issues (Wolf, 2016). From the lucrative financial benefits that narcotics syndicates earn, the issue of narcotics crime can easily spiral into other issues that threaten not only the well-being of a nation but also safety and security in general.

The crime of narcotics in Indonesia is an issue that has long gathered massive attention from the masses (Johardi et al., 2022). Indonesia itself has a strong culture against narcotics, deeply rooted in socio-cultural and religious values that believe the use of problematic drugs to be seriously immoral (Pangaribuan & Manthovani, 2019). Despite Indonesia having a diverse society with many different moral codes, the abhorrence against the use of narcotics appears to be an enduring social agreement between Indonesian people at general. Therefore, narcotics-related crimes are perceived as one of the most dangerous forces of chaos and an extremely shameful thing to be a part of. One such example is the strong cultural values against the use of

narcotics which is encapsulated within the concept of 5M, consisting of: *main* (gambling); *madon* (prostitution); *maling* (acts of theft, bribery, corruption, or wrongful acquisition), *madat* (dependence on addictive substances), and *minum* (consumption of alcoholic beverages) (Purwaningtyas & Syauqillah, 2020). This will eventually create a strong prejudice against drug addicts and even ex-drug addicts who are trying to reintegrate back into society (Sari et al., 2023). Support for drug addiction is scarce as well particularly in rural areas, where problems such as lack of funding and infrastructure come into play, creating a steep and narrow way for ex-drug abusers to get reintroduced into Indonesian society. Furthermore, it has also been discovered that there are vertical inconsistencies in regulations to support rehabilitation processes (Hendra, 2021).

Legally, the battle development against narcotics crimes has seen significant progress. The Indonesian government is proactive in its approach to fighting narcotics crime and consistent in its participative approach to tackling drug abuse, by constantly educating the Indonesian people on the dangers of drug abuse (Chotijah & Pratiwi, 2019). However, narcotics-related crimes are increasingly perceived as one of the banes of Indonesian society due to the recent expose regarding the corruption within the Indonesian government in support of big-time narcotics syndicates. This expose was popularized by the media, as the main distributor is on the run (Hadiyatna, 2023). This drives the public anger to a higher level, while also increasing the already established prejudice against any individual with any type of involvement with narcotics.

Nationally, narcotics distribution is commonly judged an extraordinary crime. Narcotics are dealt with legally, within the special criminal proceedings, with specific laws. In the past, the fight against narcotics relied on the Criminal Code (KUHP), which was an outdated legal source passed down by the Dutch Colonial Government. Ultimately, the Indonesian government passed Act No. 22 of 1997 on Narcotics. This law was later replaced when Act No. 35 of 2009 on Narcotics (Narcotics Law) was approved, which to date, remains the main legal source for narcotics crime. At the time, this was a significant upgrade in legal efforts to facilitate the battle against narcotics. This signified a paradigm shift in the legal politics to combat narcotics crime, from the absolute paradigm to a neo-classic one (Sakah Sumaragatha et al., 2021). This implies that the legal approach taken by Indonesia no longer concentrates on punitive punishments as well as rehabilitation to help drug addicts reintegrate into society. Illegal usage of substances

included in the list of narcotics is a part of the whole legal framework to fight narcotics crime. Nonetheless, it is important to differentiate the two, as both have different impacts on society and are constituted of unlike levels of moral disengagement (D'Urso et al., 2018).

### **Factors threatening Juvenile Criminals' Welfare and the Need for Restorative Justice**

Children require different management than adults, as they are more vulnerable to different kinds of problems regarding their brain and personal development. There is a scientific consensus on the importance of children's development, particularly around the age of adolescence, as it can be a significant and transformative life phase for a person (Sawyer et al., 2018). Furthermore, the immature decision-making and terrible emotional regulation that affect children during adolescence period in their criminal activities have also been found to be one of the most persistent problems throughout years of development in scientific research on children's development (Monahan et al., 2015). These existing issues can be further exacerbated by punitive criminal punishments, which may provoke stress, and later raise the chances of triggering future crimes (Young et al., 2017). Therefore, the criminal justice system should address these factors and how they can affect the criminal proceedings of a child and future chances of recidivism. A restorative approach is ever so relevant in this case because rather than punishing juveniles and cornering them in society, it is preferable to understand the motive of their issue and to guide them well as they reintegrate into society.

The term juvenile is a significant aspect of the protection of children in the legal system. Juvenile in the legal sphere refers to a person whose age is not yet to be considered an adult. In legal perception, the juvenile is regarded as a child, while the use of the term child and others, such as youth and adolescent, is often synonymous with the use of the term juvenile. In the Indonesian legal system, there is no specific translation to refer to the term and the translation mainly defines the child. However, the Indonesian legal system implements "children in conflict with the law", as stipulated by Act No. 11 of 2012 on the Juvenile Justice System (Juvenile Justice System Law), which is essentially the same as the term juvenile. Juvenile within this country's setting refers to a person who has passed the minimum age of criminal responsibility but is not yet an adult. This is comprehensively interpreted by Article 1 Section 3 of the Juvenile Justice System Law that children in conflict with the law or juveniles are "*children in conflict with the law, hereinafter referred to child is a child who is aged 12 years.*"



Furthermore, the Juvenile Justice System Law understands that juveniles require special care even in criminal proceedings, as it specifies through Article 26 paragraph (3) that *“The conditions for being appointed as an Investigator as referred to in paragraph (1) include: a. is experienced as an investigator; b. is interested, aware, dedicated, and understanding of children's problems; and c. has attended technical training on juvenile justice.”* This is an important arrangement to ensure that legal proceeding does not cause any harm to the children, while also still pursuing justice. In the case of narcotics, Act No. 11 of 2012 specified through Article 75 Section (1) Point c states that *“criminal punishment in the form of rehabilitation outside the institution can take the form of having to: c. attend therapy due to abuse of alcohol, narcotics, psychotropic substances, and other addictive substances.”*

Restorative justice is also normatively supported by the Juvenile Justice System Law, through Article 5 Section (1) which stipulates *“the juvenile criminal justice system shall prioritize a restorative justice approach.”* Under this provision, the chance of utilizing diversion as a restorative justice method is higher, as it is also governed by the Juvenile Justice System Law, rather extensively in the second chapter of the law. In narcotics abuse cases, another important provision is Article 7 of the Juvenile Justice System Law, which states that *“Diversion, as intended in paragraph (1), is carried out in the event that the criminal act committed: a. is punishable by imprisonment of less than 7 (seven) years; and b. is not a criminal act of repetition.”* This is significant in applying diversion for narcotics crime because according to 111 of the Narcotics Law, the crime of possessing narcotics is punishable from 4 to 12 years.

However, it is necessary to look at the factors that might have affected the development of children negatively, which can be attributed to the poor environment of growing up (Sofiana et al., 2018). Disadvantageous environments can result in creating major risk factors such as the lack of role models, stress, terrible coping skills, and peer pressure from negative influences, putting children at serious risk of developing drug addiction (Pandian & Lakshmana, 2017). Furthermore, a limitation of this point of view is the involvement of a child in the consumption of narcotics as well as its distribution, which should warrant severe legal consequences.

### **Self-medication and Its Underlying Factors**

Access to healthcare is one of the essential features, if not the most important human rights (Sakellariou & Rotarou, 2017). Governments are responsible for providing the basic

needs of taxpayers and ensuring that the well-being of the people is taken care of at least to some degree. From this standpoint, the government is naturally obliged to provide healthcare services accessible to the public, be it out of responsibility or responsiveness (Crespy & Szabó, 2018). However, the reality is often more entangled than how government responsibility is conceptually depicted, particularly in Indonesia, where rural areas often lack the necessary infrastructure and people living with insufficient financial ability to access medical assistance (Tzenios, 2019). This issue also happens in urban areas, where rising wealth inequality among other forms of the same problems often becomes a serious obstacle to accessing quality healthcare (Borrell et al., 2013). Aside from the obvious issues alike financial stability, stigma can also prevent people from receiving the medical assistance they need, particularly for mental health issues (Corrigan et al., 2014). Additionally, issues regarding access to healthcare and self-medication have also been discovered to be more prevalent in developing countries (Baracaldo-Santamaría et al., 2022). These problems can lead people to look for alternative ways to treat their medical issues, which might be harmful to them.

On the other hand, the rise of the internet has opened new potentials and challenges for people globally. In Indonesia, the internet has become one of the most principal necessities to go through the day. This is reflected by the record that Indonesia has one of the biggest numbers of social media users in the world, showing that Indonesia is consistently in the top 5 of the lists of countries with the highest number of users in some of the most-used social media platforms (Paramitha, 2023). One of the ways that the internet can be utilized is by accessing medical knowledge and medicinal information (Tan & Goonawardene, 2017). This trend is especially popular among the youth, which is mainly attributed to the cases in which young people have more access to the internet and have developed better web-related skills (Beck et al., 2014).

From one perspective, this can help the youth to be more aware of health-threatening issues in their environment and their daily lives. Information regarding the adverse effects of certain unhealthy diets and the importance of having the right amount of nutrients on the internet will certainly help the spread of health education, while also lifting some of the responsibility burdens off the government. Besides, this will ensue self-diagnosis and self-medication, in which people are only relying on their subjective analysis of their health problems and their non-professional opinion for medications. Both actions involve no opinion from any medical professional, placing the people who practice them vulnerable to issues ranging from short-term

such as the worsening of symptoms to long-term issues such as medication tolerance (Rather et al., 2017).

In the United Kingdom, this issue is way more complex. Pharmacists in the UK are allowed to prescribe medications through supplementary prescribing, including controlled substances, as it is allowed after reviewing the administration of medicines that showed potential benefits for patients published (Steed, 2012). Further analysis found that supplementary prescribing was unable to help patients in emergency, pharmacists were eventually legalized to prescribe medications independently. This creates a much more elaborate situation regarding this issue as it opens more options for patients to get medication. Nevertheless, this approach by the UK is endorsed by mandatory certification through the GPhC-accredited course, made for pharmacists to be independent prescribers (Muirhead et al., 2020). This measure essentially covers the legitimacy of the prescribed drugs, which in turn can reduce the risk of drug abuse. In Indonesia, pharmacists are not entitled to prescribe medication for hard drugs and hard drug precursors, which leaves fewer options for people struggling with health issues. A study regarding this has also been analyzed in the UK, which highlights that lengthy prescription processes can lead to significant cost increases (Perrot et al., 2019). These developments suggest how far behind Indonesia is when it comes to facilitating medications for those who are in need, while also addressing the potential of abuse.

Self-diagnosing can be simply initiated by researching the symptoms or any type of discomfort that a person is feeling and finding out the most relevant disease related to it. However, the results people find are entirely based on symptoms one can hear or feel. In a medical diagnosis, extensive tests are required before a doctor can come to a conclusion regarding a medical diagnosis, such as auscultation or even an MRI. Self-diagnosis can mislead people into thinking that they have a serious disease which could end up giving them serious and constant anxiety, and it is what the medical science refers to as cyberchondria (Aulia et al., 2020). It can also prevent physicians from giving accurate diagnoses in the medical attention they need because it is especially arduous for healthcare professionals to present conflicting opinions about the information found online (Farnood et al., 2020). Even more dangerous is the possibility of self-diagnosed patients influencing medical professionals in their diagnosis by detailing their medical issues in a manner that only fits the medical problems that they believe they have experienced (Robertson et al., 2014). Furthermore, it has also been found that

cyberchondria-induced self-diagnosis is more prevalent among teenagers (Liu et al., 2022), which heightens the urgency to deepen the understanding regarding children's development in the age of free information.

The biggest danger of self-diagnosis is self-medication. Self-diagnosing will let people fix their health solutions based on their limited knowledge of the science of medicine, which exposes them to the peril of medical complications from treatment failures caused by self-medication practices (May et al., 2023). Even more harmful, the people who self-diagnose themselves might also look for medications that require a doctor's prescription without an actual prescription, thus making it an illegal activity. The worst of all and perhaps the most dangerous one is the use of banned substances, even for medical purposes. This may result in severe health issues, such as addiction and cognitive impairment, which may end in overdose (Mark, 2019).

Children are not free from the dangerous practice of self-diagnosis and self-medication, as they can look for narcotics as a way to deal with some of their medical issues, as a coping mechanism (Kavitha et al., 2022). The prevalence of narcotics usage for medical purposes has also been linked to a negative feedback loop, in which it provides short-term benefits at the cost of deteriorating symptoms over time and possible medical complications, as identified in a study analyzing the use of marijuana for self-medication (Goodhines et al., 2019). This is not only dangerous for their cognitive development but also exposes them to the criminal world, where various crimes related to narcotics distribution are closely related. Legally, it is difficult to grasp, at least normatively, what is happening with this phenomenon and how to properly deal with it. However, restorative justice authorizes courts, especially in Indonesia, to provide a precedent of compassion and understanding, to guarantee that children sinking in this problem can learn from their mistakes and get entirely reintroduced into society.

### **Analyzing Case Study Decision No. 26/Pid.Sus-Anak/2016/PN.Dps**

The case study used for this study is Decision No. 26/Pid.Sus-Anak/2016/PN.Dps, involving a 16-year-old male student who was arrested for the possession of marijuana. Interestingly, the child in conflict with the law claimed that he was using marijuana (at least at first) to deal with his sleep problems. The case is as written in the court document:

*“The child committed the said act as he had difficulty sleeping at night because he slept for a long time during the day after coming home from school, the defendant's friend provided a solution so that the defendant could sleep soundly at night, namely by smoking*

*marijuana that his friend had prepared for him to smoke, over time the defendant got addicted and then the defendant bought marijuana he consumed himself from the monthly money he received from his mother, the defendant divided into 19 packages which were put in plastic clips and stored at the defendant's house. When the defendant met with another friend to smoke marijuana, police from the Denpasar Police narcotics unit found 3 plastic clips containing marijuana leaves, seeds and stems, each with a net weight of 1.52 grams (code A1), a net weight of 1.38 grams (code A2), net weight 1.38 grams (code A3), then the search continued to the defendant's house and total net weight was found of 44.26 grams while the gross weight was 58.36 grams.”*

Normatively, this is against the provision of Article 111 Section (1) of the Narcotics Law, which states that *“Any person who, without right or against the law, plants, maintains, owns, stores, controls or provides Category I Narcotics in the form of plants, shall be subjected to imprisonment minimum 4 (four) years and maximum 12 (twelve) years and penalty of minimum Rp. 800,000,000.00 (eight hundred million rupiah) and a maximum of Rp. 8,000,000,000.00 (eight billion rupiah).”* This follows the provision of Article 7 of the Juvenile Justice System Law which requires that the crime committed for the application of diversion is punishable by less than 7 years and not repetition of act. Additionally, the phrase “against the law” here is important to underscore in this case, as the use for supposed “medical reasons” can never be accepted in any court without a prescription obtained from a licensed doctor, hence the illegality. Moreover, it is weaker marijuana than that was used as a “medication” in this case is banned for both medical and recreational purposes.

The court reached a definitive decision regarding the legal relevance and due process compliance of the diversion process and its outcomes. The judgment encompassed several key directives, which included instructing the involved parties to execute the diversion agreement. Moreover, it mandated the release of the child from detention and their return to his parents. The court also ordered the presiding judge to issue a decision concluding the examination following the full implementation of the diversion agreement. Further, the responsibility for safeguarding the evidence until the diversion agreement's complete execution was assigned to the public prosecutor. Lastly, community counselors were directed to conduct the implementation of the diversion agreement as specified by the court. This decision suggests the

court's comprehensive evaluation of the diversion process and its commitment to legal due process in overseeing the case at hand.

Unfortunately, the court did not elaborate more on returning the child to his parents means, especially when a diversion agreement was reached. The diversion agreement encompasses the child “promising” to “*improve his attitude and behavior and the child promises not to repeat the act and if he is found to do so, the child is ready to be processed according to the applicable law.*” Firstly, the term promising holds no real normative values, particularly in a criminal proceeding, as the provision of Article 7 of the Juvenile Justice System Law has prohibited the application of diversion on juveniles when the criminal act committed is a recidivism. Secondly, the child was not made to officially commit to a rehabilitation program in the diversion agreement, despite the mention of community counselors in the decision of the court. This is against the provision of Article 75 Section (1) Point c, which stipulates that counselling outside the institution comes in the form of mandatory narcotics abuse therapy. This is especially pertinent in this case because of the medical issue that the juvenile was struggling with, i.e., trouble sleeping, and the fact that the juvenile admitted that he was addicted to marijuana.

Despite the on-point display of compassion and sense of justice by applying diversion in the case, the court failed to elaborate on the root issue of this case, and therefore not fulfilling the true purpose of restorative justice. The medical reasons for using marijuana as a self-medication measure which eventually ended up establishing addiction should have been the main focus of restorative justice. The court should have also directed the juvenile to actual medical assistance for the sleep problems and the possible medical issues of marijuana withdrawal symptoms that the juvenile had probably started experiencing and will likely remain. These measures would have helped to ensure that the probability of repeated offenses is zero to none.

## **CONCLUSION**

The conceptual analysis found multiple clear connections between the emerging culture of self-diagnosis and self-medication with the rising use of narcotics. Case analysis revealed that the diversion was applied recklessly, without fulfilling the true purposes of restorative justice; recovery and proper reintegration into society. The court also could not put a proper precedence which could have been significant in understanding the emerging trends of self-diagnosis and self-medication, particularly among teenagers. Furthermore, the court might have

benefited from a far better normative construction for diversion, particularly regarding narcotics which is only stipulated by one provision within the Juvenile Justice System Law. Further, normative construction should include a more robust diversion mechanism with a heightened focus on the cause and motive of the crimes committed by juveniles. Specifically, it should include medical support to check for possible health complications regarding the addiction and the effects of narcotics usage, along with mandatory rehabilitation when addiction is involved, regardless of diversion results. The limitation of this research falls in the fact that the trend itself is still in its emerging phase, with no qualitative data collected in Indonesia even though literature with qualitative data has emerged in other countries. Due to the rising urgency to fight narcotics crime in Indonesia, further research is recommended, particularly regarding this specific phenomenon.

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