

ABSTRAK

DISPARITAS PIDANA TERHADAP ANAK PENYALAHGUNA NARKOTIKA (Studi Putusan Nomor: 18/Pid.Sus-Anak/2021/PN Tjk)

Pada dasarnya penanggulangan penyalahgunaan narkotika yang dilaksanakan oleh anak melalui hukum pidana ialah bersifat dilematis. Satu sisi, penerapan hukum pidana berdampak negatif bagi anak, serta sisi lain memperlihatkan penerapan hukum pidana bagi anak justru menjadi pilihan yang rasional serta legal. Peningkatan tindak pidana narkotika berkorelasi erat dengan disparitas putusan hakim. Permasalahan pada riset ini ialah mengapa terjadi disparitas penjatuhan pidana terhadap anak penyalahguna narkotika? serta bagaimanakah upaya menghindari terjadinya disparitas penjatuhan pidana terhadap anak penyalahguna narkotika?

Riset ini merupakan jenis penelitian yuridis normatif dan yuridis empiris. Pengumpulan data pada riset ini dilaksanakan dengan mengambil sample/data putusan Pengadilan Negeri Kelas IA Tanjungkarang dan pengumpulan data melalui studi pustaka. Selanjutnya guna mendapatkan data primer sebagai penunjang data sekunder, dilaksanakan wawancara kepada beberapa narasumber profesional. Analisis data kualitatif menganalisis seluruh data berlandaskan pada relevansinya dengan rumusan masalah riset.

Hasil penelitian menunjukkan bahwa, pertama terjadinya disparitas penjatuhan pidana terhadap anak penyalahguna narkotika disebabkan oleh perbedaan filosofi pemidanaan para hakim, tidak adanya pedoman pemidanaan, kewenangan yudisial independen dan kewenangan diskresinya masing-masing hakim. Upaya menghindari disparitas penjatuhan pidana terhadap anak penyalahguna narkotika dilakukan melalui sarana penal serta non penal. Kebijakan penal berupa pembuatan regulasi baru mengenai pedoman pemidanaan. Sedangkan sarana non penal berupa reformasi kelembagaan, reformasi perundang-undangan serta reformasi budaya hukum.

Saran dalam penelitian ini, agar para hakim memiliki filosofi pemidanaan serupa pada penjatuhan pidana dalam perkara anak penyalahguna narkotika yakni lebih cenderung pada filosofi pemidanaan utilitarian. Pemerintah serta DPR juga harus menetapkan pedoman pidana di Indonesia tanpa mengabaikan berbagai aspek hukum, keadilan, sosial, serta filosofis.

Kata kunci: Anak, Disparitas Pidana, Narkotika

ABSTRACT

CRIMINAL DISPARITY TOWARDS CHILD ABUSE OF NARCOTICS (Study of Decision Number: 18/Pid.Sus-Anak/2021/PN Tjk)

The handling of narcotics abuse by children through criminal law is basically a dilemma. On the one hand, the use of criminal law has a negative impact on children, on the other hand, the use of criminal law against children is actually considered a rational and legal choice. The increase in narcotics crime cannot be separated from the disparity of judges' decisions. The problem in this research is why there is a disparity in the punishment of narcotics abusers? and what are the efforts to avoid the disparity in imposing criminal penalties on children who abuse narcotics?

This research is a type of normative juridical research and empirical juridical research. Data collection in this research was carried out by taking samples/data from the decisions of the Class IA Tanjungkarang District Court and collecting data through library research. Furthermore, to obtain primary data to support secondary data, interviews were conducted with several professional sources. All data will be analyzed based on the level of relevance of the data with the formulation of the problem under study which is called qualitative data analysis.

The results of the study show that, firstly, the disparity in criminal convictions against children who abuse narcotics is caused by differences in the criminal philosophy of the judges, the absence of sentencing guidelines, independent judicial authority and the discretionary authority of each judge. Efforts to avoid disparities in the imposition of criminal penalties against children who abuse narcotics are carried out using penal and non-penal means. The penal policy is in the form of making new regulations regarding sentencing guidelines. Meanwhile, non-penal means are in the form of institutional reform, reform of legislation and reform of legal culture.

It is recommended that the judges have the same philosophy of punishment in imposing criminal penalties in the case of children who abuse narcotics, which is more inclined to the utilitarian philosophy of punishment. The government and the DPR must also establish guidelines for punishment in Indonesia without ignoring all considerations from various aspects such as legal, justice, social and philosophical aspects.

Keywords: Children, Criminal Disparity, Narcotics