

Non-Penal Policy of Syariah Institutions in Preventing Juveniles from Narcotics Abuse in Aceh Province, Indonesia

*Zaituni, * Riza Nizarli, ** M. Yakub Aiyub Kadir****

Faculty of Law, Syiah Kuala University, Indonesia

**27zaituni@gmail.com*

***rizanizari@unsyiah.ac.id*

****m.yakub.akadir@unsyiah.ac.id*

Abstract

This paper aims to discuss non-penal policies of *Syariah* institutions through families and educational institutions in preventing juvenile from committing narcotics abuse under the Aceh *Qanun* on Drug Abuse Prevention Facilities. Originally, a normative legal research, res covering legislative review and supporting with data that found in the field and stakeholders interview as supporting data in the use of research methodologies. The result indicates that Aceh *syariah* institutions are authorized to carry out non-penal policies in preventing child or juvenile narcotics abuse, as known under *sadd adz-dzari'ah* in islamic methodology (*usul fiqh*). However, to date, the application of preventive measures through family and educational institutions has not had any progress yet. Hence this paper suggests *Syariah* institution in Aceh, including *Dinas Syariah Islam*, Aceh *Ulama* Assembly, *Dayah* Body and Aceh *Syariah* Police in collaboration with Anti Narcotic Institution, to pay serious attention to non-penal policies to ensure the children safe from narcotics acts. This contributes to highlight the prevalence of non-penal policy can be more effective rather than penal policy in preventing children from narcotics abuses in Aceh province, Indonesia.

Keywords: Narcotics; Non-penal policies; Aceh shariah institutions; *Sadd adz-dzari'ah*.

A. Introduction

Policy is a series of concepts and principles that form the size and plan in carrying out the implementation of both work, leadership and action.¹ Criminal policy is a rational effort from the community in tackling crime, including prevention efforts with a policy approach, where there is an integration between criminal politics and integration between penal and non-penal crime prevention efforts². It can be said that criminal policy itself can be divided into two types, namely penal policies and non-penal policies.

Criminal policy is a very old policy, as the history of the discussion in 1970 at the 4th United Nations Congress where the discussion was on Prevention of crime and the Treatment of Offenders with the central theme discussing the issue of "Crime and Development". It can be said that the beginning of the discussion on criminal policy which then continued to several subsequent congresses. In term of the 4th UN Congress, it is confirmed that:³

«any dichotomy between a country's policies for social defense and its planning for national development was unreal by definitions.»

W. Clifford also stated at "The 32 International Seminar Course on Reform in Criminal Justice" in Japan in 1973 that if you want to eliminate crime in society, you must eliminate factors that cause crime by looking at the social policies that exist in society and must look at the policy itself must go further, criminal policy is not only seen after the crime has occurred but must be able to overcome it before the crime occurs.⁴

It was clear that criminal policy requires more special attention and more detailed regulation, as we know that criminal policy is still running in various social situations in society. Non-penal policies will run unequally in society if they're not accompanied by non-penal

1 Mohd. Din, *Negara Hukum dan Kebijakan Kriminal dalam Islam*, Bandar Publishing, Banda Aceh, 2018, p 43.

2 Barda Nawawi Arief, *Bunga Rampai kebijakan Hukum Pidana Perkembangan Penyusunan Konsep KUHP Baru*, Semarang, Kencana: 2014, p. 3.

3 *Ibid*, p. 6.

4 *Ibid*.

policies. Most non-penal policies are applied in narcotics crime cases involving adults, but nowadays the cases being faced are increasingly complex and involve children.

As long as children are concerned, they must be protected as it has been set out in the article of the Convention on the Rights of the Child (CRC) (also known as the UN-CRC / United Nations Convention on the Rights of the Child, 1989). It is explained in the article 4, every participating country has the right to determine and issue their own policies and regulations for the fulfillment of children's rights.⁵ Articles 3 and 4 also explain that protection for children's welfare is the responsibility of parents and agencies related to the protection of children's rights. Article 33 states that every state has the right to determine appropriate measures to protect children from the proper use of narcotic drugs and psychotropic substances.

Indonesia adapted the Convention on the Rights of the Child into Law Number 23/2002 about Child Protection which was later revised in 2014 to Law Number 35/2014.⁶ One of the articles states that children must be specifically protected for the fulfillment of children's lives. According to article 1 paragraph 15 Law Number 35/2014 that Amendments to Law Number 23/2002. Law Number 11/2012 that concerning the Juvenile Criminal Justice System as an integral part of efforts to implement the Law on Child Protection. It also regulates various protections for children in conflict from various institutions that handle cases against these children.

The protection of children and adults from narcotics abuse is also clearly stated in Article 4 of Law Number 35/2009 that concerning about Narcotics, where it is stated that one of the purposes of the Law is to prevent the Indonesian people from abusing drugs. The provisions clearly state that children must be protected both specifically and in generally. It is also included in various regulations, both national and international, so criminal policy itself is one of the con-

5 Leny Nurhayati Rosalin, <https://puskapa.org/seri-belajar/722/>. Accessed on 04 June 2021 at 03.00 PM

6 Ema Vidiastuti Utami, <http://satunama.org/2201/konvensi-hak-anak-dan-aplikasinya-di-indonesia/>. Accessed on 04 June 2021 at 03.32 PM

cepts to protect children from various crimes. Hence, Indonesia has the right to issue its own policies to avoid the occurrence of criminal acts of drug abuse by children.

The theory that used to analyze the problem is law enforcement theory. According to Soerjono Soekanto, law enforcement is an activity to harmonize the relationship of values that are spelled out in solid rules and attitudes of action as a series of value elaboration at the final stage to create and maintain peaceful of social life.⁷

Addressing the penal and non-penal policies is similar to talking about law enforcement by the government. According to Wisnubroto, criminal law policies are actions dealing with ways:⁸ (1) How are the government's efforts to tackle crime with criminal law; (2) How to formulate criminal law so that it can suit the conditions of society; (3) How is government policy to regulate society with criminal law; and (4) How to use criminal law to regulate society in order to achieve greater goals. The from this law enforcement theory is used to analyze the problems addressed in this article. It is learned that overcoming and preventing narcotics abuse is the responsibility of the Indonesian nation as a whole, not only on responsibility of the police or the government. All components of society are expected to play roles in these efforts. At least, that is what has been mandated in various laws and as mandated in Indonesian Law Number 35/2009 on Narcotics.

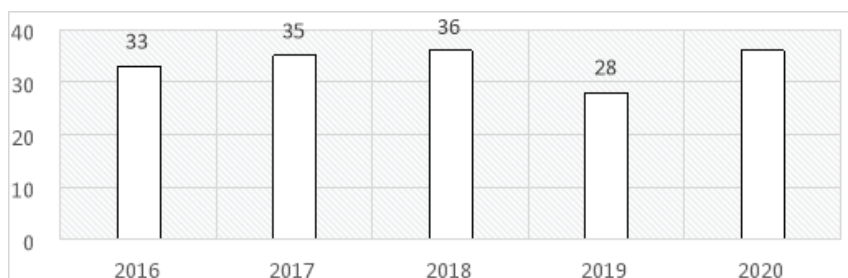
The Indonesian National Narcotics Agency (BNN) states that the level of abuse of narcotics and dangerous drugs has increased every year and the number of drug use in Indonesia is estimated at 3.6 million people from the age range 15-65 years. Narcotics abuse by children in Aceh increased from 2016-2020. Therefore, it is necessary to have a special policy from the competent agencies related to narcotics abuse to reduce the number of narcotics abuse by children, especially in Aceh.

7 Harun M. Husen, *Kejahatan dan Penegakan Hukum di Indonesia*, Jakarta: Rineka Cipta, 1990, p. 58.

8 Lilik Mulyadi, *Bunga Rampai Hukum Pidana Perspektif Teoretis dan Praktik*. Bandung: PT. Alumni, p. 391.

Aceh with all its specificities has enacted the *Qanun* Number 8/2018 concerning Drug Abuse Prevention Facilities. Based on the *Qanun*, it can be observed that Aceh has implemented criminal policies, especially non-penal policies, which are related to prevention before the crime of narcotics abuse occurs. In reality, anyone can be involved in the crime of narcotics abuse. Children who are in conflict with law in terms of criminal acts of narcotics abuse, especially in Aceh, also contribute in the high number of narcotic abuses. Therefore, the government is demanded to be more assertive in its prevention efforts. Below is a graph showing how the crime of drug abuse by children in Aceh increased in 2020:

Graph 1. Number of Narcotics Abuse Crimes committed by Children in Aceh Province on 2016 - 2020



Source: SIPP District Court in Aceh

It is learned from the graph that the number of criminal cases drugs committed by children in Aceh from 2016 until 2020 tends to be high. Therefore, it is necessary to have a concern specifically for the Narcotics case, considering that children are the next generation of the nation. In general, Indonesia is considered to be one of the countries with the highest rates of abuse of narcotics and illegal drugs. The fact that Indonesia as a state with drug emergency status is quite alarming. There are many cases of drug abuse that have been decided in courts and those that are still in the judicial process. With the population of more than 250 million people, Indonesia has been the target of narcotics smuggling from various countries due to its

potential market.⁹

In order to reduce the number of narcotics crimes committed by children, there are two things that can be done, namely penal and non-penal policies. However, in terms of penal policy, there are two sides to the following policy limitations. The origin of crimes in society is basically a social dimension that is the presence of several complete factors far from reach of criminal law. Hence, the criminal law itself will not able to see thoroughly and deeply from the roots the problem of crime in society unless with the assistance of other sciences. Therefore, the criminal law itself need social law to solve the root of evil within public. In addition, the criminal law itself has limitations as long the functions of criminal law are concerned. The criminal law is formulated to help to preventing crimes and not as a tool to eliminate the source of crimes in public. Therefore, the penal policy is simply used acts after the crime has occurred and it is not meant to overcome any causes that may lead to criminal acts in society.¹⁰ Due to its limitations, it is necessary to have a non-penal policy in the form of prevention to support crime prevention in society, so that crimes can be prevented before they occur and spreads.

The eradication of narcotics abuse is conducted by law enforcers who are granted special authority by preventing and carrying out rehabilitation. Their functions are to prevent the main target of people who are still free from narcotics so that narcotics abuse. They are also responsible to deal with targets who have fell in narcotics abuse by conducting rehabilitation to save them from addiction. They also have to conduct rehabilitation for narcotics abuse so as not to have a bad impact to the others.¹¹

This article focuses on Aceh due to the continually increasing

9 Isk, <http://www.cakrawalanews.co.id/artikel/2429/Indonesia-Menjadi-Salah-Satu-Negara-Dengan-Tingkat-Kerawanan-Tinggi-Penyalahgunaan-Narkoba/>. Accessed on 12 April 2021 at 12.00 AM

10 Beby Suryani, *Pendekatan Integral Penal Policy dan Non-Penal Policy Dalam Penanggulangan Kejahatan Anak*, *Jurnal Ilmu Hukum*, Faculty of Law, Universitas Medan, 2008, p. 72.

11 Anang Iskandar, *Politik Hukum Narkotika*, Jakarta: PT. Elax Media Komputindo, 2020, p. 19.

cases of narcotics abuse among children in this Province. It is learned that the Aceh government have taken more serious actions in carrying out prevention by issuing policies that are preventive in nature (non-penal). It addresses ways the non-penal policy preventing narcotics abuse among children according to the Aceh *Qanun* Number 8/2018 in the light of *sadd adz dzari'iah* (the theory prevention) that might be applied by the Aceh *syariah* institutions.

B. Non-Penal Policy in Preventing Children from Narcotics Abuses According to Aceh *Qanun*

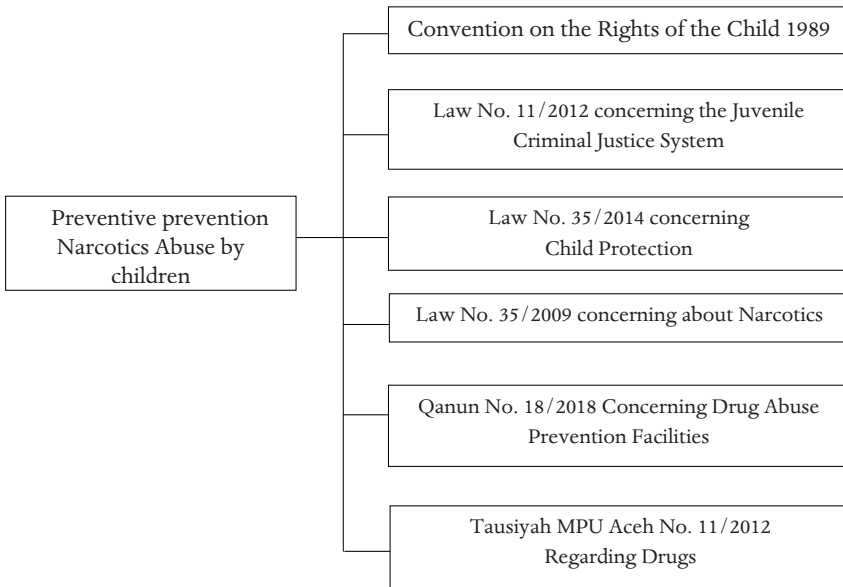
Children in conflict with law have a special position in Indonesian justice system which is regulated in the juvenile justice system. As a consequent, they must be specially protected both physically and mentally. Placing children in the juvenile criminal justice system will guarantee their rights as well as avoid them from bad impacts of delinquencies. Despite their special position in the criminal justice system in Indonesia, law enforcers and the community are still hoped to take preventive measures to prevent children from committing narcotics crime. Otherwise, children in conflict with law will experience a bad stigma in society. The regulations are made to ensure the rights of children both physically and mentally through law enforcement which is implemented and applied in society. In terms of preventing criminal acts of narcotics abuses, Indonesian government has also issued regulations to ensure the availability of narcotics for the benefit of health and to prevent, protect and save the Indonesian people from narcotics abuses.

The family is an internal figure who might have been recognized by children during their growth period. The harmonious family in this case is one of internal factors that are believed to be able to minimize criminal acts or drug abuses that might be committed by children. The children are hoped to have good communication with their parents and build mutual and close relations to establish good behavior and characters. This may hinder them from committing any actions that are against the rules. Therefore, the participa-

tion of parents in the family resilience education organized by the BKKBN (The National Population and Family Planning Board) and the PPPA (Indonesian Women Empowerment and Child Protection) in this case are necessary to support parental understanding in undergoing an ideal parenting pattern. It is also hoped that awareness to any problems that might be faced by families and children is also significant to better understand factors that might influence children from committing drug abuses.

Besides the preventive actions by families, society, and government bodies, several regulations are prepared with the preventive (non-penal) values. Such the ones are applied in Aceh. The chart below might explain.

Chart 1. Regulation that concerning the Preventive Crime's Prevention of Narcotics Abuse by Children



Source: Data Analysis (2021)

Non-penal policy (prevention) is a strategic aspect to be used in reducing crime rates. Preventive measures are considered to be more effective in reducing crime rates compared with imposing sanctions

on perpetrators, especially on children. Basically, a non-penal study is originally the result of the identification of several potential factors that can trigger drug abuse. Prevention efforts in this case are carried out with the aim of improving the likelihood of these potential factors occurring.¹²

The theory of non-penal policies can be achieved by creating a healthy community through social policies and by exploring various potential values within the community to be transformed into regulations which are hoped to have effective measures to minimize crime rates in society. Sudarto suggested that routine police patrol activities include non-penal measures preventive measures for any potential criminals.¹³ Considering preventive efforts against criminal acts of drug abuse that might be children, Aceh government conduct raids in places against suspected narcotics crimes, such as in internet cafes, or even in schools and Islamic boarding schools, in collaboration with the BNN (Indonesian Anti-Narcotics Board) and *Wilayatul Hisbah* (an Aceh Islamic institution formed to command good and prevent crimes and uphold law as long as the *Syariah* laws are concerned).

The implementation of *Syariah* in Aceh is a result of the implementation of special areas granted by the Indonesian Government, mandated through the Law Number 18/2001 concerning Special Autonomy. This is simply the result of decentralization as a consequence of Reformation in 1998. The Law Number 22/1999 concerning Regional Government which was later amended to the Law Number 32/2004 granted authorities upon autonomous regions to regulate and manage their own governance affairs and their local interests in accordance that aim of improving community welfare, public services and regional competitiveness.¹⁴

12 Ruben Achmad and Neisa Angrum Adisti, "Kebijakan Kriminal dalam Pencegahan dan Penanggulangan Narkotika Di Kota Palembang", *Legalitas Jurnal Hukum*, Magister of Law, Postgraduate Program, Universitas Batanghari, June 2020, p. 48.

13 Sudarto, *Kapita Selekta Hukum Pidana*, Alumni, Postbus, 2010, p. 115.

14 Mukhlis. (2014). "Keistimewaan dan kekhususan Aceh Dalam Perspektif Negara Kesatuan Republik Indonesia". *Jurnal Ilmu Hukum*, 4 (1): p. 83-84.

Special Autonomy granted to the Province of the Special Region of Aceh as the Province of Nanggroe Aceh Darussalam has opened up opportunities for the growth of creativity, discretion and freedom for the Provincial and District/City Governments and the Acehnese people to establish their own identity and develop their territory. This opportunity was responded positively by various components of society and government. This positive response is indeed need to prevent the possibility of returning the idea of centralized system once practiced in the era of New Order under Soeharto.¹⁵

Aceh, with its granted special autonomy, has created institutions that are obliged to implement Islamic law such as the Aceh *Syariah* Institution (Dinas Syariat Islam), the Aceh Ulema Consultative Council and the Aceh *Dayah* Education Office. One of the objectives of the implementation of Islamic law in Aceh is to prevent children from any criminal acts, such as narcotics abuses. All special institutions in Aceh have similar responsibilities.¹⁶ Prevention children from narcotics abuses through non-penal means is the obligation of these agencies in terms of issuing policies both in the form of actions and regulations such as *Qanun*. Chart 2 reveals the results of interviews with the three agencies responsible for preventing criminal acts of drug abuse.

1. Dinas Syariat Islam (Islamic Syariah Institution)

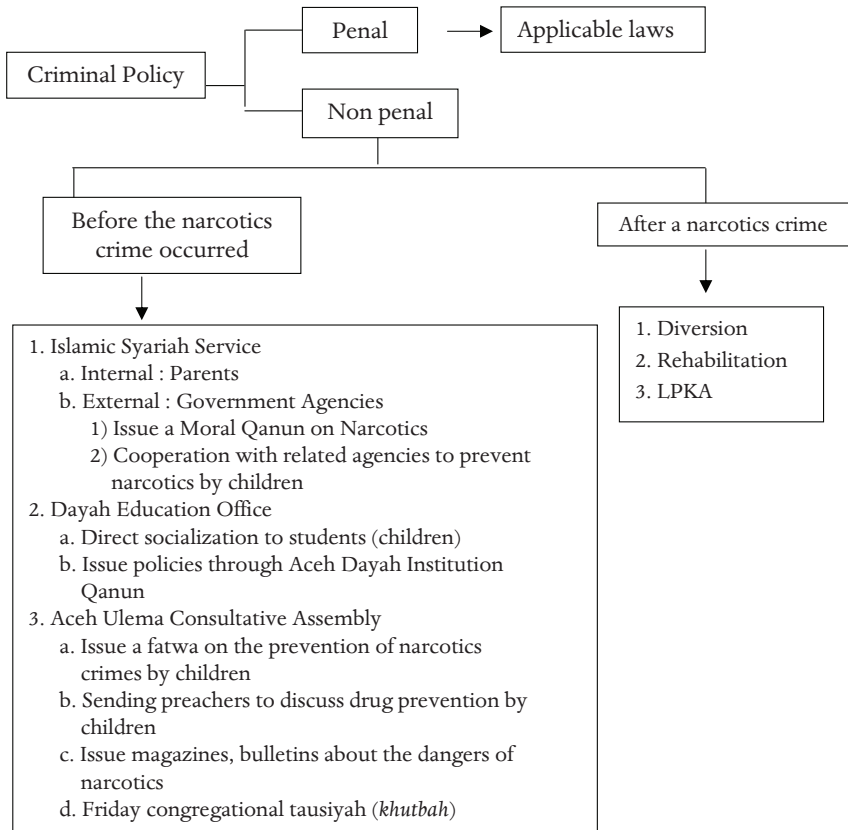
The establishment of the Islamic *Syariah* Service (DSI) as a regional apparatus is a concrete response to the enactment of the Law Number 44/1999 concerning the Implementation of the Privileges of Aceh and the Law Number 18/2001 concerning Special Autonomy for Nanggroe Aceh Darussalam.

The implementation of Islamic values in Indonesian legal system originated from the implementation of the Quran. As a specialty granted to this province, Aceh has enacted its own *Qanun* to regulate

15 Al Yasa Abubakar, "Hukum Pidana Islam Di NAD". *Dinas Syari'at Islam Provinsi Nanggroe Aceh Darussalam*. Banda Aceh, 2006, p. 1.

16 Interview with Abdul Razak, Head of the Drafting of Laws at the Islamic Syariah Service, on 25 March 2021.

Chart 2. Preventive Prevention according to Special Institutions in Aceh



Source: Aceh Sharia Institutional Interview Results

criminal actions which are not provided in the Indonesia Criminal Code or Criminal Procedure Code, as long as they are not contradict with higher regulations.

The main tasks of the Islamic *Syariah* service itself are divided to three main objectives:¹⁷

1. Regulator. As a leading sector in making policies in preventing children from narcotics crimes, the Islamic Terms Service has designed the 2019 *Qanun*. One of its substances is about narcotics

17 Interview with Abdul Razak, Head of the Drafting of Laws at the Islamic *Syariah* Service, on 25 March 2021.

and the ethics of children so as not to commit narcotics crimes. The *Qanun* draft is now under formulation;

2. Facilitators. Their function as the facilitator is to educate teenagers and students about the obligation of the Islamic *Syariah* Service, including sending preachers and lecturers in the month of Ramadan to deliver preach. However, it is found that the implementation of this function has not been comprehensive and effective;
3. Coordinator. This function is carried out to coordinate all law enforcement agencies in Aceh, including coaching and education for the police officers, judges at the members of *syariah* court. In addition, the Islamic *Syariah* Service also designs a juvenile justice process.

So far, Aceh does not have a special legal product regarding non-penal prevention of criminal acts of narcotics abuse by children except a general notion regarding the prevention of narcotics abuse crimes. Besides, only few articles relating to the prevention of narcotics abuse by children.

As suggested above, the main factor causing children committing criminal acts of narcotics abuse is a less harmonious of a family, such as a divorce.¹⁸ All institutions, including the Islamic *Syariah* service, face obstacles in preventing children form drug abuse include lacking of resources, lack of funding sources, poor common perception between institutions, and lacking of synergy and coordination among institutions.¹⁹

2. Aceh Dayah Educational Institution

There are no regulations or policies from the Aceh Educational Institution that have been specifically issued to prevent children from narcotics abuses except the existing *qanun*, namely the *Qanun Aceh*

18 Yoga, I Nengah Arya Sedana. "Penanggulangan Tindak Pidana Penyalahgunaan Narkotika oleh Anak di Kota Denpasar". 2021. <https://ojs.unud.ac.id/index.php/kerthawicara/article/view/48407/28860>. Accessed on 23 May 2021, at 01.38 PM

19 Rachmat Syafe'i, *Ilmu Ushul Fiqih*. Bandung: CV. Pustaka. 2018. p. 13.

Number 8/2018 concerning facilities for preventing narcotics abuse. It is learnt that there are no specific rules issued by the Aceh Dayah Educational Institution but to implement what has already been regulated in the *Qanun* on narcotics. Similarly, its function also failed to address specific policy for students (children) but to carry out direct socialization in collaboration with the local Police.²⁰

Socialization about the dangers of narcotics which is conducted directly by the Dayah Education Institution in Dayah Tabina Aceh, Muara Satu District, Lhoksemawe is one of the non-penal efforts in preventing children, especially Dayah students from being involved in criminal acts of narcotics abuse considering the number of narcotics abuse by children continue to increase from year to year and there must be special actions that are quite serious in preventing criminal acts of narcotics abuses.²¹ The Aceh Dayah Education Office is an institution rely on Aceh government as long as the funding is concerned. Without the support from the central government has been a difficulty in preventing criminal acts of drug abuse among the children.²²

Regarding the prevention of narcotics abuse, schools are one of institutions trusted by parents to foster and educate children. Through many activities conducted in the intra and extra schools can help students be far from narcotics. The schools in Aceh usually invite the police and the National Narcotics Agency to directly deliver education before the students. Besides, health officers also attend the schools to conduct regular urine test for the students to make sure if the students are free drug abuses.

3. Aceh Ulema Consultative Assembly (MPU)

The Ulama Consultative Council or known as the Aceh MPU is an

20 Interview with Mursal, head of the Curriculum Development section at the Aceh Dayah Education Office, on 19 April 2021.

21 Miksalmina, <https://dinasdayahaceh.acehprov.go.id/berita/kategori/governmentkadisdik-dayah-aceh-santri-harus-menjadi-garda-terdepan-dalam-pemberantasan-narkoba>. Accessed on 21 April 2021 at 09.00 AM

22 Interview with Mursal, Head of the Curriculum Development Section in the Aceh Dayah Education Office, on 19 April 2021.

independent institution that accommodates Acehese scholars or Muslim scholars to guide, foster and protect Muslims in Aceh. The Aceh Ulama Consultative Council (MPU) has a very important role in strengthening the implementation of Islamic Sharia in Aceh concerning its role as an advisor to the Aceh Government and the DPRA (Aceh People's Representatives) as long as the formation of the Aceh *Qanun* draft is concerned. Aceh, which its special status, has an authority to implement Islamic law. It is hoped from this Islamic law that the MPU be able to implement Islamic law from all aspects of life among Acehese people.

With regards to the Article 139 of the Law Number 11/2006 concerning the Government of Aceh:

- a. The MPU has the function of establishing a *fatwa* that can be one of the considerations for regional government policies in the fields of government, development, community development, and the economy, and in line with the Article 4 of Aceh *Qanun* Number 2 of 2009 concerning MPU;
- b. Give consideration to regional policies, covering the fields of government, development, economy, socio-culture and society;
- c. Provide advice and guidance to the community based on Islamic teachings.

The MPU participation in the issuance of a *Qanun* is in accordance with its main duties and functions as regulated in *Qanun* number 2/2009 concerning MPU. Its functions are also to issue *fatwas* as a respond to social changes as well as bridges ideas among the agencies, including to issue policies relating to narcotics abuse by children.²³ The Aceh Ulama Consultative Council has an authority to issue policies on the prevention of criminal acts of drug abuse among children due to its function to develop physical and mental well-being (*akhlakul karimah*) of the Acehese people. The deputy chairman of the MPU stated that the crime of narcotics abuse by children today is heavily influenced by social media. Being aware of the potential threats, the MPU provides thoughts and ideas to the

23 Interview with Muhibbuththabary, Deputy Chairperson of the Ulema Consultative Council (MPU), on 5 April 2021.

Aceh government. One of the *fatwa* that has been issued by the Aceh MPU is on online games in 2019, such as the status of the PUBG on-line game. Unlike the *fatwa* on online games, the *fatwa* on narcotics is not specific. With regard to narcotics, MPU children must first look at the symptoms that exist in the community, then they can issue a *fatwa* or suggestion (*tausiyah*).

The Qanun that regulates narcotics prevention in general already exists, namely regarding narcotics prevention facilities not only for adults but in general it also concerns children. Social phenomena in children are considered a necessity, not a new phenomenon, so the form of prevention is through strengthening the aspects of Islamic religious teachings if physically there is a National Narcotics Agency (BNN) to do prevention and if non-physical about mental religion has become the main task of the MPU (duty MPU is to improve non-physical) in order to minimize religious life in Aceh. The entry of narcotics into people's lives is not only in the ordinary community but into the detention center even though there are many criminal acts of drug abuse. The Aceh MPU and the district MPU each year cooperate to disseminate information to relevant agencies to discuss the dangers and prevention of narcotics crimes, because for children there are no specific rules or policies regarding narcotics, MPU itself wants children in Aceh free from narcotics crime, considering that Aceh is one of the areas that is high in narcotics abuse.²⁴

According to the MPU, the proper prevention for narcotics abuse by children is through a comprehensive guidance, through a religious approach and socio-cultural establishment. Due to its function, the MPU can only provide advice (*tausiyah*) to the governor and the to the DPRA members, as well as to among the community. Usually, the *tausiyah* is provided in a form of written letters or legal *fatwa* as the implementation of the Qanun Number 2 of 2009 concerning

24 Interview with Muhibbuththabary, Deputy Chairperson of the Ulema Consultative Council (MPU), on 5 April 2021. See Also Masduki, Din Mohd, M. Y. Aiyub Kadir, (2020). "Urgency of Integrated Assessment Team (TAT) In Handling Victims of Narcotics", *IOSR Journal Of Humanities And Social Science (IOSR-JHSS)*, Vol. 25 (6).

the Aceh Ulema Consultative Council (MPU).

The law enforcement, according to Sajipto Rahardjo, is basically to realize the desire in an orderly manner which is regulated by a law. As long as the law enforcement is concerned, the rules or policies are provided by the law makers to help people avoid criminal acts.²⁵ The law as a medium of preventing children from narcotics abuses is a part of the responsibilities of law enforcement in Aceh, particularly by the Islamic *Syariah* Service, the Aceh Dayah Education Service and the Aceh Ulema Consultative Council (MPU).

The idea of prevention before a crime occurs which is the objective of the non-penal policy is known in Islamic law as *Sadd adz dzara'iah*. This idea, according to Ibn 'Assyria has become a designation to prevent intermediaries / means to damage. In Islamic law, *sadd dzara'iah* is defined as "forbidding and rejecting all things that might become means to criminality, damage and danger".²⁶

According to Ali Abubakar, the concept of *sadd adz-dzari'ah* is generally understood as an effort of avoiding permissible actions due to their potential harms. Ibn al Qayyim defined *sadd adz-dzari'ah* as a preventive effort against potential harms / damages. In its application, however, *Sadd adz dzari'ah* depends on the concept of *maslahah* (public interests). Therefore, with regards to this method, any permissible actions (*mubah*) might be stated as reprehensible (*haram*) when they potentially lead to harms or damages (*mafsada*), either in their types or qualities.²⁷ With regard to the idea of prevention, the concept of *sadd adz-dzari'ah* is applicable upon the criminal acts of narcotics abuses. It is an alternative of non-penal approach to protect children from any criminal acts like narcotics abuses.

According to the head of the Draft Law on the Islamic *Syariah* Service, *Sadd adz dzara'iah* is an Islamic legal theory that considers preventing criminal acts to happen. Cooperating with the Integrat-

25 Sajipto Rahardjo, *Masalah Penegakan Hukum*. Bandung: Sinar Baru. 2000. p. 34.

26 Hifdhotul Munawaroh, "Saad Al-Dzari'at dan Aplikasinya pada Permasalahan Fiqih Kontemporer". *Jurnal Ijtihad*. 2018, 12 (1): p. 66.

27 Ali Imron HS, "Menerapkan Hukum Islam Yang Inovatif Dengan Sadd Al-Dzari'ah," *Jurnal Ilmiah Ilmu Hukum QISTI*, p. 66.

ed Service Center for the Empowerment of Women and Children (P2TP2A), the Islamic *Syariah* service tries to implement this idea by disseminating religious teachings among children and providing services at a coaching house.²⁸

The deputy chairman of the Aceh Ulama Consultative Council believed that both non-penal approach and *Sadd al dzari'ah* have similarity in common, namely the preventive actions that are applicable to various aspects of crimes. Following this idea, women are not allowed to travel alone unless with their family or spouses. Similarly, narcotics abuses are prevented through socialization from potential activities that might lead to such abuses. Therefore, children are warned from excessive use of cellphones which are believed to have contributed to narcotics abuses. Abdul Razak, a respondent, has remind an Arabic quote “*al wikayah khairul minal 'ilat*” (to prevent is better than to cure). So the theory *sadd adz dzara'iah* demonstrates a very idea of non-penal policy.

C. Conclusion

Aceh has the authority to prevent children from narcotics by issuing non-penal policies. By applying the concept of *sadd adz dzari'iah*, Aceh institutions have put into the priority the preventive measures to tackle the high rate of a crimes with respects to narcotics abuses among children. However, the application of such preventive measures has not had any progress yet. Therefore, this it is suggested that *Syariah* institutions in Aceh collaborate with provincial Anti Narcotic Institutions to develop more policies and activities to ensure the children safe from narcotics acts as long as the application of non-penal policy in Aceh is concerned. Likewise, people have alaso take parts in supporting activities to develop harmonious family, and special intervention to children from broken-home families would be essential to take into account. Therefore, the participation of parents in family resilience education in this case is one of the supporting factors

²⁸ Interview with Abdul Razak, Head of the Drafting of Laws at the Islamic *Syariah* Service, on 25 March 2021.

in creating parental understanding in undergoing an ideal parenting pattern. Among the muslim community like Aceh, the idea of *sadd adz dzari'iah* as the implementation of the non-penal policy is believed to be effective treatments in preventing children from narcotics abuses in Aceh rather than corporal punishment such as imprisonment imposed by *qanun jinayat* (Aceh Islamic criminal law).

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