

Policy For The Implementation Of Criminal Sanctions Against Criminal Activities Of Narcotics And Psychotropics In The Jurisdiction Of Central Java

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Abstract

The purpose of this study is to analyze the policy of applying criminal sanctions against perpetrators of narcotics and psychotropic crimes in the jurisdiction of Central Java, policies of implementing criminal sanctions against perpetrators of narcotics and psychotropic crimes in Indonesia, as well as policies for implementing criminal sanctions against perpetrators of narcotics and psychotropic crimes in the future. This study uses a sociological juridical approach which in this case relates to the enforcement of prison sanctions against narcotics criminals in the jurisdiction of Central Java, in Indonesia in general, and in the future, using descriptive analytical research specifications. The data used are primary and secondary data which will be analyzed qualitatively. The research problem was analyzed using the theory of justice and the theory of expediency. The results of the study concluded that: 1) The policy of implementing criminal sanctions against narcotics and psychotropic criminals in the jurisdiction of Central Java is the enactment of Law Number 35 of 2009 concerning Narcotics which has a tendency to up, both producers, distributors, consumers. This law uses a criminal approach to monitor and prevent narcotics abuse. 2) The policy of implementing criminal sanctions against narcotics and psychotropic criminals in Indonesia is Law Number 35 of 2009 concerning Narcotics which has regulated fairly severe criminal sanctions against narcotics criminals, but in fact the circulation and use of narcotics is increasing and expanding. This is due to the absence of a deterrent effect on the perpetrators or the absence of a deterrent effect on the perpetrators of narcotics crimes. Efforts to tackle criminal acts are a reaction given to criminals, namely in the form of criminal means (penal) and non-criminal law (non-penal), which can be integrated with one another. 3) The policy of implementing criminal sanctions against narcotics and psychotropic criminals in the future is that the purpose of criminal law is to protect the community against crime, meaning that the public needs to obtain clear, implied, and enforceable protection of what penalties can be imposed on violators of good order. namely in the form of criminal means (penal) and non-criminal law (non-penal), which can be integrated with one another. 3) The policy of implementing criminal sanctions against narcotics and psychotropic criminals in the future is that the purpose of criminal law is to protect the community against crime, meaning that the public needs to obtain clear, implied, and enforceable protection of what penalties can be imposed on violators of good order.

Keywords: Law enforcement, criminal sanctions, narcotics

1. Introduction

The number of narcotics abuse cases in the Central Java Regional Police jurisdiction is currently increasing. This can be seen from the number of cases that increase every year. The increasing number of consumers using Narcotics certainly invites the operation of a Narcotics syndicate network, with the largest percentage of target users being at the age of students and college students, which is 60 percent. Prevention and control efforts carried out by the Central Java Regional Police, especially the Narcotics Investigation Unit, in this case require further steps in the law enforcement process.

Law enforcement against crimes in Indonesia, especially in terms of sentencing, should refer to the approach of legal norms that are fostering criminals by providing guidance or medical and social rehabilitation. Thus, it can improve the perpetrators and users of narcotics crime abuse. This should be able to provide discourse to judges in imposing rehabilitation sanctions on Narcotics users. In empirical reality in the field of punishment in general still adheres to the concept of only imposing imprisonment, without any medical and social rehabilitation. Thus, it can provide an illustration that the crime will only stop for a moment and will reappear in the social life of the community.

The existence of the Narcotics Law and Psychotropic Law is a legal political effort by the Indonesian government to tackle narcotics and psychotropic crimes. Thus, it is hoped that the formulation of the Law can tackle illicit trafficking and abuse of Narcotics and Psychotropics, as well as become a reference and guideline for courts and the organizers or implementers of court decisions that apply the Law, especially judges in imposing criminal sanctions on crimes that occur. .

Narcotics crime as regulated in Law no. 35 of 2009 concerning Narcotics provides a fairly heavy criminal sanction. However, in reality the perpetrators of crimes are actually increasing, and for the convicts in reality it is not a deterrent and in fact there is a tendency to repeat it again. This can be caused by the existence of a criminal imposition factor that does not have an impact or deterrent effect on the perpetrators.

The realization of overcoming the eradication of criminal acts of narcotics abuse cannot be separated from the role of law enforcement officers, but requires cooperation from various parties, including community participation. The form of community participation here can be in the form of providing information about criminal acts of narcotics abuse to Polri investigators, as well as assisting the success of the social rehabilitation program that has been regulated by Law no. 35 of 2009 concerning Narcotics.

The purpose of this study is to analyze the policy of applying criminal sanctions against perpetrators of narcotics and psychotropic crimes in the jurisdiction of Central Java, policies of implementing criminal sanctions against perpetrators of narcotics and psychotropic crimes in Indonesia, as well as policies for implementing criminal sanctions against perpetrators of narcotics and psychotropic crimes in the future. which will come.

2. Writing Method

The approach method used in this research is the sociological juridical method. The specifications in this study are descriptive. Sources of data used in this study are primary data sources, secondary data, and law enforcement data for police investigators. Primary legal materials consist of: the 1945 Constitution of the Republic of Indonesia, the Criminal Code, Law Number 35 of 2009 concerning Narcotics, Law Number 2 of 2002 concerning the Police of the Republic of Indonesia. Secondary legal materials consist of books, research results, and websites. The data collection methods used were interviews with resource persons and document review, while the data analysis methods used were qualitative data analysis in this study including data reduction, data presentation and conclusions/verification.

3. Research Results and Discussion

3.1. Policy on the Implementation of Criminal Sanctions Against Criminals of Narcotics and Psychotropics in the Legal Territory of Central Java

In the jurisdiction of Central Java, there is an increasing number of cases and suspects of narcotics crimes every year. Circulation of narcotics is getting higher due to various factors such as the ineffectiveness of prison sanctions, multiplied profits, lack of education, economic needs, and many other factors that also influence such as regulations on criminal sanctions against narcotics crimes.

With the development of science and technology and supported by abundant natural resources in the country of Greater Indonesia, it makes it easier for perpetrators of narcotics crimes to poison the people of Indonesia. Circulation of narcotics is increasingly widespread and reaches all elements of society, from people who have high economic abilities to people who have low economic abilities in various ways so that their economic strength can reach prices to make up for their lust for narcotics. Narcotics itself became popular throughout the community. Starting from adults, parents, teenagers, even children.

The ease of poisoning the public with narcotics is not only caused by a lack of knowledge of the effects and impacts of narcotics, even though they continue to consume them even though they know and even understand the effects and impacts of narcotics. Another reason it is easy to poison Indonesian people with narcotics is because the changing times and the mobility of life have made drugs a part of their lifestyle, from what was previously only a medical device, now drugs are starting to become famous as the gods of the world, pain relievers.¹

The process of poisoning or it can be said that narcotics illicit traffic is any activity or series of activities carried out without rights or against the law which is determined as a narcotics crime. The perpetrator can be said to be a drug dealer. The existence of

¹Julianan Lisa F.R. dan Nengah Sutrisna W., 2013, *Narkoba, Psikotropika dan Gangguan Jiwa Tinjauan Kesehatan dan Hukum*, Nuha Medika, Yogyakarta, p. 2.

Law Number 35 of 2009 concerning Narcotics has actually regulated all matters relating to Narcotics.

Article 1 paragraph 1 of Law Number 35 of 2009 concerning Narcotics states that narcotics are substances or drugs derived from plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain and can cause dependence. It is known that narcotics comes from the word Narcois which means narcotics or to put to sleep, namely substances or drugs that anesthetize. Another definition of narcotics is a substance or drug that can cause unconsciousness or anesthesia, because these substances work to affect the central nervous system.²

Narcotics crime prevention strategy is a demand reduction strategy in the form of primary, secondary and tertiary prevention strategies, which will be explained in more detail as follows:

- Primary prevention or early prevention, which is aimed at individuals, families or communities and communities who have not been touched by the problem of narcotics abuse and illicit trafficking, with the aim of making individuals, families and groups to refuse and fight narcotics. All sectors of society that have the potential to help the younger generation not to abuse narcotics Primary prevention activities are mainly carried out in the form of counseling, information and education. The primary prevention strategy aims to prevent the shift of the population from being regular users to regular users who should be included in the information on the frequency category of narcotics use, the number of drugs used and the factors related to the transition process of heavy narcotics addicts.
- Secondary prevention or prevention of vulnerability is prevention aimed at groups or communities that are prone to drug abuse. This prevention is carried out through education, counseling, and training so that they stop, then carry out positive activities and keep them prioritized on health. Sectors of society that can help children, young people stop abusing narcotics. Secondary prevention activities focus on early detection of children who abuse drugs, individual and family counseling of users, social guidance through home visits.
- Tertiary Prevention is the prevention of relapse users/addicts who have participated in therapy and rehabilitation programs, so that they do not relapse. Community sectors that can help former victims of narcotics users not to use narcotics anymore. Tertiary prevention activities are carried out in the form of social guidance and counseling for the person concerned and his family and peer group, creation of a social environment and social supervision that benefits former victims for steady recovery, development of interests, talents and work skills, fostering parents, family, friends and victims. stay, so that they are ready to receive ex-victims properly, lest the ex-victims return to abusing Narcotics.

² M. Wresniworo, et. al., 1999, *Masalah Narkotika, Psikitropika, dan Obat-Obat Berbahaya*, Yayasan Mitra Bintibmas, Jakarta, p. 403.

In addition, prevention is also needed to overcome the direct roots or countermeasures in the distribution of narcotics or narcotics supplies. One of them is a repressive program, a repressive program is a program to take action against producers, dealers, dealers and users based on law. This program is a government agency that is obliged to supervise and control the production and distribution of all substances classified as narcotics. In addition to controlling production and distribution, a repressive program in the form of prosecution is also carried out against users as violators of the narcotics law. The agencies responsible for the distribution, production, storage, and abuse of narcotics are: Drug and Food Agency (POM), Ministry of Health, Directorate General of Customs and Excise, Directorate General of Immigration, The National Narcotics Agency of Central Java Province has an important role which is expected to be able to overcome the narcotics problem, because BNN is a government institution that is devoted to handling the prevention and eradication of drug abuse and illicit trafficking (P4GN) in Central Java Province, especially in Semarang City. In this case, the Central Java Province BNN applies a demand reduction strategy in the form of primary, secondary and tertiary prevention.

- Primary prevention is aimed at people who have never committed a narcotic crime. All sectors of society that have the potential to help not to abuse narcotics. Primary prevention activities are mainly carried out in the form of counseling, information and education. The primary prevention strategy aims to prevent the population shift from being regular users to regular users who should be included in the category of frequency of use of narcotics, the amount of narcotics used and the factors associated with the transition process of heavy narcotics addicts.
- Secondary prevention is prevention aimed at people who have started experimenting with narcotics crimes. Community sectors that can help others stop committing narcotics crimes. Secondary prevention activities focus on early detection of people who abuse narcotics, counseling for individuals and families of users, social guidance through home visits.
- Tertiary prevention is aimed at suspects in narcotics crimes or former suspects in narcotics crimes. Community sectors that can help former narcotics criminal suspects not to have anything to do with narcotics anymore. Tertiary prevention activities are carried out in the form of social guidance and counseling for the person concerned and his family and peer group, the creation of a social environment and social supervision that benefits former victims for steady recovery, development of interests, talents and work skills, fostering parents, family, friends where the victim stay, so that they are ready to receive ex-victims properly, lest the ex-victims return to abusing Narcotics.

Efforts to overcome narcotics crime by the National Narcotics Agency of Central Java Province are an important effort in eradicating narcotics in the Central Java region, especially Semarang City because if narcotics crimes are only handled by Police investigators, it will be less effective considering the duties and authorities of the police cover all crimes in the area. Semarang City, but not only narcotics crimes, so that the National Narcotics Agency of Central Java Province can focus on narcotics crimes only.

A rational effort to eradicate narcotics and psychotropic cases is to use penal means (criminal law). Circulation of narcotics that is carried out illegally is a crime that is not only detrimental to users but also to the government. So that the government through its legislation must be able to enforce criminal law properly. Efforts to overcome narcotics and psychotropic cases as crimes with criminal law (penal facilities) are more focused on the nature of "repressive" (suppression / eradication / suppression), after the crime or crime has occurred. Besides that, essentially the means of penalizing is part of law enforcement efforts, therefore criminal law policies are part of law enforcement policies (Law Enforcement). In other words, overcoming narcotics and psychotropic substances can be done by submitting narcotics and psychotropic criminal cases that occur to law enforcement, in this case, the police, prosecutors, and BNN for processing in accordance with applicable legal provisions. Where the punishment or criminal sanction imposed on the perpetrator is expected to have a deterrent effect on the perpetrator in accordance with the purpose of punishment.³

Although the use of the "penal" criminal law in a criminal policy is not a strategic position in overcoming corruption, it is not a policy step that can be simplified by taking an extreme attitude to abolish the "penal" criminal law tool. Because the problem does not lie in its existence but in the policy of its use.⁴

3.2. Policy on the Implementation of Criminal Sanctions Against Narcotics and Psychotropic Criminals in Indonesia

The existence of the narcotics law is a legal political effort by the Indonesian government to tackle narcotics crime. Therefore, it is hoped that the formulation of the law can tackle illicit trafficking and narcotics abuse, as well as become a reference and guideline for courts and the organizers or implementers of court decisions that apply the law, especially judges in imposing criminal sanctions on crimes that occur.

Narcotics crime as regulated in Law Number 35 of 2009 concerning Narcotics provides quite heavy criminal sanctions. However, in reality over the last 5 years, the perpetrators of crimes have actually increased.

Narcotics are actually useful if they are used properly, especially in the health sector, but if they are misused they can cause havoc, so the use and abuse of narcotics must be regulated in state law. Since the promulgation of Law 35 of 2009 concerning Narcotics, narcotics are divided into Category I, Group II and Group III narcotics and narcotics in the form of plants or in the form of non-plants. This law regulates the production, distribution, distribution, trade, ownership, receipt, delivery, export, import, storage, carrying, treatment, reporting, packaging, labeling, advertising, destruction and others.

Violation of the provisions stipulated in the law carries various penalties, depending on the severity of the impact caused. Threats of punishment that are threatened can be in the form of:

³ Barda Nawawi Arief, 1996, *Bunga Rampai Kebijakan Hukum Pidana*, Citra Aditya Bakti, Bandung, p. 36.

⁴Ibid.

- Death penalty, or
- Confinement plus a fine, or
- Confinement in prison, or
- Fine penalty

In addition to the types of threat of punishment mentioned above, Law Number 35 of 2009 concerning Narcotics also adds rehabilitation and seizure of assets as a threat of punishment. The judge who examines the narcotics addict case may decide the defendant to undergo treatment or treatment in a rehabilitation center. The rehabilitation given to the accused is counted as serving time.

Meanwhile, asset confiscation can be carried out against defendants who are proven to be distributing narcotics. The defendant must prove that his assets do not originate from the proceeds of narcotics crime, the sale of narcotic precursors, including money laundering proceeds from the sale of narcotics. If the court succeeds in proving that the asset is the proceeds of a narcotics crime, then the legal apparatus has the right to confiscate it for the state. The loot is used for the implementation, prevention and eradication of illicit narcotics abuse and to support medical and social rehabilitation efforts for narcotics addicts. The illicit trafficking of narcotics is any activity or series of activities carried out without rights and against the law which is determined as a narcotics crime.⁵

Basically narcotics in Indonesia when viewed from the juridical aspect is a legitimate existence. The Narcotics Law only prohibits the use of narcotics without a permit. In this situation, at the empirical level, the use of narcotics is often misused not for the benefit of medicine and science. However, far from that, it has become a promising and rapidly growing business arena, where this activity has an impact on physical and mental damage to narcotics users, especially the younger generation.

According to Law No. 35 of 2009, Narcotics are divided into 3 groups, Narcotics Group I is prohibited from being used for the benefit of health services. In limited quantities, Narcotics Category I can be used for the benefit of developing science and technology and for diagnostic reagents, as well as laboratory reagents after obtaining approval from the Minister on the recommendation of the Head of the Food and Drug Supervisory Agency.

Narcotics Group II and Group III in the form of raw materials, both natural and synthetic, used for drug production. For the purpose of treatment and based on medical indications, doctors can give Narcotics Group II or Group III in limited quantities and with a certain willingness to patients in accordance with the provisions of the legislation.

Article 136 of Law no. 35 of 2009 provides sanctions in the form of narcotics and narcotics precursors as well as the proceeds obtained from narcotics crimes, whether movable or immovable assets or tangible or intangible assets and goods or equipment used for narcotics crimes are confiscated for the state. Article 146 also provides sanctions for foreign nationals who have committed a narcotic crime or have undergone narcotics crime, namely expulsion from the territory of the Republic of Indonesia and

⁵ Danny Yatim, 1991, *Keluarga dan Narkotika (Tinjauan Sosial Psikologis)*, Arcan, Jakarta, p. 5.

prohibited from re-entering the territory of the Republic of Indonesia. Meanwhile, in Article 148, if the penalty stipulated in this law is not paid by the perpetrator of a narcotic crime, the perpetrator is sentenced to a maximum of two years in prison as a substitute for a fine that cannot be paid.

In Indonesia, crime prevention is an attempt to tackle crime through the enforcement of criminal law that fulfills a sense of justice. The types of legal violations committed by criminals (criminals), if considered, can be categorized into:

- Awareness of his actions, because it is a work (professional criminal), namely crimes committed by individuals such as assassins.
- Awareness that the action must be carried out even though it is a violation of the law, namely the criminal who commits it with advance preparations.
- The awareness that the perpetrator is not given the opportunity by the community or the community cannot give life, so he is forced to become a recidivist to overcome his life's difficulties.

Efforts to tackle criminal acts are a reaction given to criminals, namely in the form of criminal means (penal) and non-criminal law (non-penal), which can be integrated with one another. Means of criminal (penal) and non-criminal law (non-penal), namely:

- Criminal Policy with Penalty Means
Is a crime prevention using criminal law in which there are two central problems, namely:
 - What actions should be criminalized?
 - What sanctions should be used or imposed for violations.
- Criminal Policy with Non-Penalty Facilities
The policy of overcoming crime with non-penal means only covers the use of social facilities to improve certain social conditions, but indirectly affects efforts to prevent crime.⁶

Narcotics crime is an act that is very dangerous for the user, the wider community, the state, and the future young generation, because the circulation has been widespread and entrenched carried out by narcotics illicit trafficking syndicates with sophisticated modus operandi, therefore narcotics crimes need to be addressed and eradicated. Countermeasures policies in criminal law are essentially part of law enforcement policies (especially criminal law). Crime prevention policies through the making of criminal laws are an integral part of public protection policies and are an integral part of social politics. Social politics can be interpreted as all rational efforts to achieve public welfare and at the same time include community protection.

Law No. 35 of 2009 concerning Narcotics has regulated criminal sanctions that are quite severe against narcotics criminals, but in fact the circulation and use of narcotics is increasing and expanding. This is due to the absence of a deterrent effect on the perpetrators or the absence of a deterrent effect on the perpetrators of narcotics crimes. In several countries, including Indonesia, which is the largest country in narcotics

⁶ Arief Amrullah, 2010, *Politik Hukum Pidana Dalam Perlindungan Korban Kejahatan*, Bayumedia, Jakarta, p. 22.

abuse, has made efforts to overcome narcotics crime by improving the performance of law enforcement officers in eradicating illicit narcotics trafficking, increasing prevention programs from the level of legal counseling to reducing the supply of narcotics, as well as efforts to give effect. psychologically to the community so as not to fall into narcotics crime.

The President has issued Presidential Decree Number 17 of 2002 concerning the National Narcotics Agency (BNN) which at the same time no longer applies Presidential Decree Number 116 of 1999 concerning the National Narcotics Coordinating Board (BKNN). The National Narcotics Agency (BNN) which was formed based on the Presidential Decree of the Republic of Indonesia Number 17 of 2002 has several tasks to assist the President in dealing with narcotics, both eradicating, overcoming, and preventing narcotics crimes.

The National Narcotics Agency (BNN) is not only in the central government, but for the sake of creating cooperation between the Central Government and the Regional Government regarding narcotics, the Provincial National Narcotics Agency (BNNP) is also formed based in the province as well as in the Regency/City and the Regency National Narcotics Agency (BNN). BNNK). The Provincial National Narcotics Agency (BNNP) is determined by the Governor, while the Regency National Narcotics Agency (BNNK) is determined by the Regent/Mayor.

The existence of the National Narcotics Agency (BNN) and the Narcotics Law are Indonesian legal political efforts to tackle narcotics crime. It is hoped that with the establishment of the National Narcotics Agency (BNN) and the existence of the Narcotics Law, it is hoped that narcotics crimes can be tackled, both illicit narcotics trafficking and narcotics abuse. In addition, the existence of the Narcotics Law can be used as a guideline for courts, especially judges to decide a narcotics crime case, both in its application and imposing sanctions on narcotics criminals.

4. Closing

The conclusion in this study is that the policy of implementing criminal sanctions against narcotics and psychotropic criminals in the jurisdiction of Central Java is that the enactment of Law Number 35 of 2009 concerning Narcotics has an increasing trend. This law uses a criminal approach to monitor and prevent narcotics abuse. The policy of implementing criminal sanctions against narcotics and psychotropic criminals in Indonesia is Law Number 35 of 2009 concerning Narcotics which has regulated fairly severe criminal sanctions against narcotics criminals, but in fact the circulation and use of narcotics is increasing and expanding. This is due to the absence of a deterrent effect on the perpetrators or the absence of a deterrent effect on the perpetrators of narcotics crimes

Suggestions in this study are judges must consider whether narcotics users should be sentenced to prison or need medical or social rehabilitation, What should be prioritized in the application of sanctions against narcotics users is the provision of medical or social rehabilitation, because it is in accordance with the status of this narcotics user which is a sick victim.

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