

LAW ENFORCEMENT OF DRUG ADDICT DURING THE COVID-19 PANDEMIC BASED ON JUSTICE

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Abstract

The purpose of this study was to find out and analyze law enforcement against narcotics addicts during the Covid-19 pandemic so that it is expected to be useful for eradicating sustainable social problems, especially in Indonesia, This research uses a normative juridical approach, the results of the study which stated that The increasing use of drugs during the pandemic includes increased anxiety due to the covid-19 pandemic, increased stress due to the pandemic, some experienced an increase in income to spend, boredom, more time spent with partners and friends of drug users who live at home, loneliness, depression and isolation, and more free time. Law enforcement against narcotics addicts in the 19th pandemic is carried out by implementing the stages of formulation, application and execution that are oriented towards a harmony between and the rules and real human behavior. These rules then become guidelines or benchmarks for behavior or actions that are considered appropriate or should, the behavior or attitude of the act aims to create, maintain, maintain peace.

Keyword: Covid 19; Drug Addict; Justice; Law Enforcement;

A. Introducing

The problem with drugs is still a complex matter. Given its undeniable urgency that if its use is not wise and is left unchecked, it can be detrimental and have a very bad impact on the community people who are victims. Not only does it have a bad impact on people who are victims, this drug abuse can also threaten those around them. Plus, the distribution of these drugs is quite difficult to control. Dealers and users do not seem to know the circumstances and situations, such as for example at this time. During the covid-19 pandemic. The circulation of drugs in the midst of the Covid-19 pandemic is becoming increasingly serious. Considering that there is not only one problem that is being faced, but two problems at once. The ongoing circulation of drugs and the Covid-19 pandemic. The use of drugs during a pandemic like today will be more dangerous than normal conditions.¹

Until now, the government of the Republic of Indonesia, both at the central and regional levels, has made efforts to overcome the Covid-19 pandemic and minimize the death toll caused by the Covid-19 pandemic, such as by implementing an appeal for people to keep their distance

1. Sheila Natalia, Sahadi Humaedi, Bahaya Peredaran Napza Pada Masa Pandemi Covid-19 di Indonesia, *Prosiding Penelitian & Pengabdian Kepada Masyarakat Universitas Padjajaran*, Vol 7, No: 2 2020, page. 387 - 392

in interacting (Social Distancing). Large-Scale Social Restrictions (PSBB) in several areas that have proposed PSBB to the minister of health, require residents to use masks when leaving the house, spraying disinfectants, ban going home, closing or limiting business activities on several types of businesses that can cause people to gather in a concentrated manner (such as internet cafes, cafes, restaurants, hotels, shopping centers and others) socializing the prevention of the Covid-19 pandemic, working from home (work from home), school and studying at home, and various other policies related to accelerating the handling of the Covid-19 pandemic.²

The main source of the spread of the COVID-19 pandemic is from human to human, such as physical contact so that the spread is increasingly aggressive. Transmission of the corona virus from symptomatic patients occurs through droplets that come out when coughing or sneezing. In addition, it has been observed that the corona virus can be viable in aerosols (generated via a nebulizer) for at least 3 hours.³

This pandemic is the right opportunity for narcotics sellers to prey on people who are restless due to the Covid 19 outbreak. The sadness due to Covid-19 will make someone think about buying this item. During a pandemic, the economic impact is felt. What will happen to drug users who have to continually satisfy their addiction while not having the means to do so? Addicts may sell their valuables to fund their drug use, but when those assets are depleted, their criminal tendencies increase dramatically, as an addict will do anything to satisfy his cravings.

The modes and strategies of drug dealers continue to develop with new ways and new media so that law enforcement officials cannot detect drug trafficking. Drug abuse in the midst of the covid-19 pandemic will become a new problem because the spread of covid 19 cannot be reconciled with anyone, so a solution must be found. Social stability, economy, politics and national security will be disturbed when there is a threat of crime on a small or large scale. During the current Covid-19 pandemic, preventive measures are needed, in addition to law enforcement.⁴

Narcotics abuse is the non-medical or unlawful use of illicit goods known as narcotics (narcotics and addictive drugs) that can endanger a person's health and productivity.⁵ Drug abuse is used not for the purpose of treating disease, but is used intentionally to achieve "a certain awareness" because of the effect of drugs on the soul. As Indonesian people in general, we are currently faced with a very difficult situation to worry about due to the widespread use, indiscriminately of various kinds of narcotics and psychotropic substances.⁶

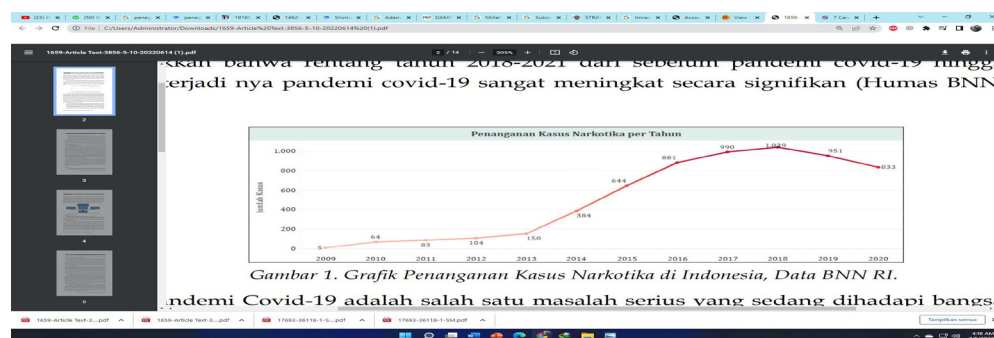
Drugs are a new style of colonialism in this millennial era, because the target is productive young generations. The young generation who acts as the backbone of the nation that should prepare themselves for the regeneration of the nation's leaders have been damaged due to drugs.⁷ That the facts on the ground show that from year to year there has been an increase of 30% to 50% of the number of criminal cases handled in various regions in the Unitary State of the Republic of Indonesia, especially in big cities, so that it will automatically have an

2. Rizkan Zulyadi, *Analisis Kebijakan Pemerintah Kota Medan Dalam Penanganan Pandemi Covid-19, dalam Buku Segi Hukum Terhadap Implikasi COVID-19 di Indonesia: Hasil Pemikiran Kritis Pimpinan APPTHI*, Editor: Ahmad Redi dan Ibnu Sina Chandranegara, Kencana, Jakarta, 2020, page.10
3. Dewi Cahyandari, Shinta Hadiyantina, Nandharu Ramadhan, Regional Government Efforts in the Prevention and Response of the Corona Virus Outbreak, *Cakrawala*, Vol 14 No 1 Juni 2020, page.76-81
4. Izza Aliyatul Millah, Penanggulangan Kejahatan di Masa Pandemi Covid-19 (Dalam Perspektif Kriminologi Dan Viktimologi), *Jurnal Komunikasi Hukum (JKH)*, Vol. 6 No. 2, Agustus 2020, page.497-513.
5. Sumarlin Adam, Dampak Narkotika Pada Psikologi dan Kesehatan Masyarakat, *Jurnal Health and Sport*, Vol 5, No 2, 2012, page.1-8.
6. Andri Winjaya Laksana, Tinjauan Hukum Pidana Terhadap Pelaku Penyalahgunaan Narkotika Dengan Sistem Rehabilitasi, *Jurnal Pembaharuan Hukum*, Vol II No. 1 Januari-April 2015, page.75
7. Hendri Jayadi Pandiangan, Poltak Siringoringo, Bahaya Narkotika dalam Perspektif Hukum Pidana Indonesia sebagai Pengembangan terhadap Penanggulangan Penyalahgunaan Narkotika bagi Generasi Muda Indonesia, *Jurnal Comunita Servizio*, Volume 1, Nomor 2, Tahun 2019, page.154-178

impact on increasing the number of inmates in prisons. narcotics.⁸ Circulation of narcotics in the community, as if never stopped, and the existence of this crime of narcotics abuse, then there are legal rules that are violated.

The use of technology is a strategic platform in socializing the dangers of narcotics to the community.⁹ This is also one of the main goals of BNN RI in socializing the dangers of narcotics during the COVID-19 pandemic. Through social media such as digital platforms, it is also one of the most crowded media used by various teenagers and adults. Drug abuse is defined as the non-medical or illegal use of illicit commodities such as narcotics and addictive drugs that can harm a person's health and productivity.¹⁰ So that it has an impact on dependence on its users and can also have an impact on the psychology of those who use it excessively and continuously and this is a social problem that will have a bad impact on the nation and state.

The National Narcotics Agency (BNN) noted that the narcotics problem in Indonesia is still in a condition that requires continuous high attention and vigilance from all elements of the Indonesian nation.¹¹ The results of a research survey conducted by Ernita Dewi show that the range of 2018-2021 from before the COVID-19 pandemic to after the Covid-19 pandemic has increased significantly based on a survey conducted by the National Narcotics Agency:¹²



Based on the description above, the purpose of this study was to find out and analyze law enforcement against narcotics addicts during the COVID-19 pandemic so that it is expected to be useful for eradicating sustainable social problems, especially in Indonesia, especially the problem of circulation and use of narcotics in people's lives is increasing. Coupled with the distribution of narcotics through social media which is increasingly rampant

B. Research Methods

The approach used is Juridical-Normative, Legal research with a normative doctrinal approach, or normative juridical legal research or normative legal research is basically an activity that will examine internal aspects (to solve problems that exist in) the positive law.¹³ The pattern of thinking and analysis based on deduction is that normative legal research that examines the norm system as an object of study can use deductive logic with a syllogism tool to build a

8. Raden Rara Rahayu Nur Raharsi, Supanto, Muhammad Rustamaji, Eksistensi Sanksi Pidana Denda dalam Penegakan Hukum Tindak Pidana Narkotika di Indonesia, *Wawasan Yuridika*, Vol. 3 No. 2 September 2019, page.115-134
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13. Kornelius Benuf, Muhamad Azhar, Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer, *Jurnal Gema Keadilan*, Vol 7 Ed I 2020, page.20-33

perspective of legal truth.¹⁴

C. Results and Discussion

1. Factors for increasing Narcotics Addicts During the Covid 19 Pandemic.

The National Narcotics Agency (BNN) noted that the narcotics problem in Indonesia is still in a condition that requires continuous high attention and vigilance from all elements of the Indonesian nation.¹⁵ Some of the main drivers of increased drug use during the pandemic include: increased anxiety due to the covid-19 pandemic, increased stress due to the pandemic, some experienced an increase in income to spend, boredom, more time spent with partners and friends of drug users who live at home, loneliness, depression and isolation, and more free time.

The stress conditions experienced by a person are actually used by dealers to offer their drugs. Whereas according to the National Institute of Drug Abuse, drug abusers are more susceptible to contracting the Corona virus than normal people who do not use drugs. In addition to the stress experienced, losing a job can also be an opening for dealers to distribute drugs. The demands of life that cannot be postponed and the difficulty of finding a new job during the Covid-19 pandemic has forced some people to plunge themselves into a vicious circle of illicit drug trafficking.

Stress is a negative emotional experience accompanied by physiological, biochemical, and behavioral changes designed to adapt to the stressor by manipulating the situation. With the onset of stress, a person usually looks for ways to overcome his stress or look for coping. One way they deal with stress is to use drugs. The use of this drug can be intended for fun alone or to avoid the problem at hand. This is in line with the current state of affairs. The number of drug abuse has increased in the midst of the Covid-19 pandemic because many people feel stressed, whether it's because of the economic crisis, loss of livelihood/job, working from home, distance learning, the effect of PSBB (Large-Scale Social Restrictions) that the government has imposed because the public is prohibited from doing so. to leave the house if it is not necessary which then forces people to live in loneliness in the midst of the shadow of a disease outbreak that is very easy to move from one person to another. Excessive fear and panic because of the fear of being infected with this virus is also a driving factor for a person to stress.¹⁶

One of the preventive steps is the prevention of drug abuse among the younger generation by providing education to the community, especially the younger generation about the dangers of drugs through various media, early education through schools by incorporating the dangers of drugs into the school curriculum. Fostering anti-drug volunteers to accommodate community participation to be able to play a role in drug control according to their respective potentials. The role of family and environment is very supportive in preventing drug abuse.

2. Law Enforcement of Drugs Addicts during the Covid-19 Pandemic Based on Justice

In an emergency like today, the Law should not be rigid because the Law is part of human creation used to uphold human dignity. Humans do not serve the alphabet and semicolons contained in Law as the fruit of reasoning, but laws that serve the interests of humans to

14. Mukti Fajar ND, Yulianto Achmad, *Dualisme Penelitian Hukum Normative & Empiris*, Cet III, Pustaka Pelajar, Yogyakarta, 2015, page.122

15. Yulia Hairina, Shanty Komalasari, Kondisi Psikologis Narapidana Narkotika di Lembaga Perasyarakatan Narkotika Klas II Karang Intan Martapura, Kalimantan Selatan. *Jurnal Studia Insania*, Vol 5 No 1 2017, page.94

16. Syaifullah Kholik, Evi Risa Mariana, Zainab, Faktor-Faktor Yang Mempengaruhi Penyalahgunaan Narkotika Pada Klien Rehabilitasi Narkotika Di Poli Napza RSJ Sambang Lihum, *Jurnal Skala Kesehatan*, Volume 5 No. 1 Tahun 2014, page.1-8

uphold human values.¹⁷

Law No. 35 of 2009 concerning Narcotics is designed to reduce the number of narcotics trafficking in Indonesia which has a transnational nature and to reduce the number of victims of narcotics abuse, especially among teenagers who endanger people's lives. This can be seen in the preamble to Law No. 35 of 2009 concerning Narcotics. With the aim of reducing the number of victims of narcotics abuse, Law No. 35 of 2009 concerning Narcotics has made a special chapter, namely Chapter IX which includes rehabilitation punishments for addicts and victims of narcotics abuse. The inclusion of this chapter is intended so that victims of narcotics abuse can be subject to rehabilitation sentences instead of imprisonment or imprisonment.¹⁸

Criminal sanctions in Law Number 35 of 2009 are regulated in Articles 111-Article 148. Criminal law policies related to criminal sanctions, sentencing, actions and weighting in Law Number 35 of 2009 are:¹⁹

1. The sanctions used are in the form of criminal sanctions and action sanctions;
2. Criminal sanctions include basic punishments, namely: death penalty, life imprisonment, imprisonment with a certain time limit, confinement, fines and additional penalties in the form of: revocation of certain rights against corporations in the form of revocation of business licenses and/or revocation legal entity status;
3. For action sanctions in the form of medical and social rehabilitation as well as expulsion and prohibition from entering Indonesian territory for foreign nationals who commit criminal acts in Indonesia after serving criminal sanctions;
4. The amount/duration of criminal sanctions varies, namely: for fines ranging from Rp. 1,000,000 (one million rupiah) to Rp. 10,000,000,000 (ten billion rupiah). If the crime is committed by a corporation, it can be subject to a weighting of 3 (three) times that of the fine that is threatened, and for imprisonment ranging from 1 (one) year to 20 (twenty) years.;
5. Criminal sanctions are formulated in 4 (four) forms, namely:
 - a. In the singular (jail or fine only);
 - b. In an alternative form (choice between imprisonment or a fine);
 - c. In cumulative form (imprisonment and fines);
 - d. In a combination/mixed form (prison and/or fine);
6. There is a special minimum criminal threat (jail or fine);
7. The weighting of criminal acts based on the amount or narcotics, the consequences, carried out in an organized manner, carried out by corporations, carried out using children who are not old enough, and if there is a repetition (recidive) within a period of 3 (three) years. This weighting is excepted for the death penalty, life imprisonment, or 20 (twenty) years imprisonment;
8. Attempt and conspiracy shall be punished with the same punishment as committing a crime;

17. Andri Winjaya Laksana, Law Enforcement Reform on Covid 19 Pandemic: a Necessity or an Innovation? *Varia Justicia*, Vol. 16 No. 2 (2020), page.170-182

18. Rayani Saragih, Penegakan Hukum Terhadap Penyalahgunaan Narkotika Di Indonesia, *Journal of Education, Humaniora and Social Sciences (JEHSS)* ISSN 2622-3740 (Online) Vol 4, No. 1, Agustus 2021, page.98-105

19. Dahlan, *Problematika Keadilan Dalam Penerapan Pidana Terhadap Penyalahguna Narkotika*, Cetakan Pertama, Deepublish, Yogyakarta, 2017, page.62 - 63.

9. If the fine cannot be paid, the perpetrator may be sentenced to a maximum imprisonment of 2 (two) years in lieu of a fine.

In addition to this, the criminal threats in Law Number 35 of 2009 are graded according to the act and the amount of weight of each type. In addition, to the provisions of Article 113 paragraph (2), Article 114 paragraph (2), Article 115 paragraph (2), Article 116 paragraph (2), Article 118 paragraph (2), Article 119 paragraph (2), Article 121 paragraph (2) and Article 38 paragraph (2) of Law Number 35 of 2009 states that there is a death penalty in addition to imprisonment and a fine. In imposing criminal sanctions, narcotics criminals have different roles, positions, and sanctions, both based on the laws and regulations governing them, as well as based on the roles and impacts caused by their actions. Criminal provisions against perpetrators of narcotics crimes in Law Number 35 of 2009 are regulated in Article 111 to Article 148.

Law enforcement against narcotics addicts during the Covid-19 pandemic based on the value of justice is carried out through certain objectives. several stages as a rational effort or process that is deliberately planned to achieve a certain goal. These stages are:

1. Formulation Stage The stage of enforcing criminal law in abstracto by the legislature that carries out voting activities that are in accordance with current and future conditions and situations, the formulation stage is carried out by implementing supporting regulations for handling narcotics addicts using the principle of restorative justice. For example: Attorney General's Guidelines Number 18 of 2021 concerning the Settlement of Handling Criminal Cases of Narcotics Abuse through Rehabilitation with a Restorative Justice Approach as the Implementation of the Prosecutor's Dominus Litis Principle;
2. Application Stage The stage of criminal law enforcement (criminal law application stage) by law enforcement officers, starting from the police/BNN to the courts. The application stage aims to enforce the law based on criminal legislation that has been made by lawmakers, in carrying out this task law enforcement officers must adhere to the values of justice and use, in the context of law enforcement against narcotics addicts during the Covid-19 pandemic based on the value of justice is carried out by carrying out an assessment by an integrated assessment team that produces recommendations for rehabilitation for narcotics addicts.
3. Execution Stage The stage of enforcing the implementation of the law as well as concretely by criminal implementing officers. At this stage, the criminal implementing officers are tasked with enforcing the laws and regulations that have been made by lawmakers through the application of the crimes that have been applied in court decisions.

At the execution stage of law enforcement against narcotics addicts during the COVID-19 pandemic, narcotics addicts who have received recommendations from the integrated assessment team will be sent to a rehabilitation center to undergo recovery from narcotics dependence, for the 19th pandemic, rehabilitation is carried out by implementing the health protocol;

Thus, the process of implementing the punishment that has been determined in

the court, according to Prof. Sudarto, the criminal implementing apparatus in carrying out their duties must be guided by the criminal laws and regulations that have been made by the legislators and the usability law.²⁰

Thus, law enforcement is a system that involves a harmonization of, among other things, the rules and real human behavior. These rules then become guidelines or benchmarks for behavior or actions that are considered appropriate or should, the behavior or attitude of the act aims to create, maintain, maintain peace.

The classification of narcotics criminals can be seen from several aspects as stipulated in Law Number 35 of 2009 and other statutory provisions relating to narcotics crimes. Criminal provisions against perpetrators of narcotics crimes in Law Number 35 of 2009, as stated are regulated in Articles 111 to 147. Narcotics crime is one of the extraordinary crimes so that extraordinary eradication needs to be carried out such as weighting the threat of criminal sanctions. Special minimum criminal arrangements in Law no. 35 of 2009 raises the assumption that the law aims to provide severe penalties for perpetrators of criminal acts in eradicating narcotics crimes.²¹

The handling of narcotics crime cases requires caution and it is necessary to look at all the legal aspects. Do not just view narcotics crimes (including narcotics abuse) as a serious threat to society, so that perpetrators must be severely punished. In particular, victims of narcotics abuse must be avoided as far as possible from imprisonment. It is important to note that in 2014 in Indonesia there were around 23,779 correctional inmates who were drug users who were serving criminal sentences in prisons. This happens because drug users are sentenced to criminal penalties, even though the choice of rehabilitation punishment is better for drug users.²² Criminalizing not only provides a deterrent effect, but how to make the criminals served by these inmates are also able to make prisoners become better individuals. The tendency to criminalize addicts and abusers is getting worse, so the right solution is to rehabilitate addicts and narcotics abusers.

The implementation of law enforcement of the Narcotics Law during the COVID-19 pandemic still refers to the provision of legal protection for those who fall into the category of addicts and victims of narcotics abuse. Medical rehabilitation and social rehabilitation are the main objectives of the enactment of the Narcotics Law, but even though rehabilitation is a mandatory thing to be carried out, comprehensive evidence is needed to classify someone as belonging to the classification of addicts or victims of narcotics abuse, so it can be concluded that judges must be fair and cannot be arbitrary. has the authority to give sanctions to the accused, and of course must be with strong evidence, to declare guilt or innocence.²³

20. Sudarto, *Kapita Selekta Hukum Pidana*, Alumni, Bandung, 1986, page. 15.

21. Wijayanti Puspita Dewi, Penjatuhannya Pidana Penjara Atas Tindak Pidana Narkotika Oleh Hakim Di Bawah Ketentuan Minimum Ditinjau Dari Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika, *Magnum Opus*, Volume II, Nomor 2 2019, page.55-73

22. Nurul Huda, Yusuf Saefuddin, Seno Wibowo Gumbira, Sumarji, Integrated Assessment: Implementation of Restorative Justice to Countermeasure Drugs Crime in Indonesia, *Jurnal Ilmiah Kebijakan Hukum*, Volume 14, Nomor 1, Maret 2020, page.111-124

23. I Made Esa Suryaputra, Mulyadi, Perlindungan Hukum Terhadap Pecandu Dan Korban Penyalahgunaan Narkotika, *JUSTITIA: Jurnal Ilmu Hukum dan Humaniora*, Vol. 8 No. 3 Tahun 2021, page.338-350

The mandatory nature of medical rehabilitation and social rehabilitation should be an important basis for judges to take action in deciding cases against victims and drug abuse. However, the mandatory nature of this rehabilitation, Article 54 and Article 127 of the Narcotics Law, are closely related. It can be seen in article 127 paragraph (2) that it is stated that judges are obliged to pay attention to the provisions of article 54, article 55, and article 103 in making a decision. However, although it is mandatory, in its implementation it still depends on investigators and public prosecutors. If the public prosecutor in his claim does not use the provisions of article 127, it is unlikely that narcotics users will be placed in rehabilitation institutions. the most fatal condition is if the judge decides to use article 127, but does not consider the rehabilitation provisions.²⁴

Taking into account that most of the prisoners and detainees in narcotics cases are categorized as users or even victims, which if viewed from the aspect of their health are actually people who are sick, therefore imprisoning the person concerned is not the right step because of neglecting care and treatment, the Supreme Court with the benchmark provisions of Article 103 of Law Number 35 of 2009 concerning Narcotics take a step forward in building a paradigm of stopping criminalization or decriminalization of narcotics addicts by issuing a Circular Letter of the Supreme Court (SEMA) Number 4 of 2010 concerning the appointment of Narcotics Abusers and Addicts to Rehabilitation Institutions Medical and Social Rehabilitation. Where SEMA Number 4 of 2010 can be used as a basis for consideration or a reference for judges in imposing rehabilitation sanctions.

D. Conclusion

The increasing use of drugs during the pandemic includes increased anxiety due to the covid-19 pandemic, increased stress due to the pandemic, some experienced an increase in income to spend, boredom, more time spent with partners and friends of drug users who live at home, loneliness, depression and isolation, and more free time. Law enforcement against narcotics addicts in the 19th pandemic is carried out by implementing the stages of formulation, application and execution that are oriented towards a harmony between and the rules and real human behavior. These rules then become guidelines or benchmarks for behavior or actions that are considered appropriate or should, the behavior or attitude of the act aims to create, maintain, maintain peace.

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²⁴ Ibid

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