

The Accountability of Criminals Act in the Methamphetamine Abuse

Taryat Taryat^{*)}, Amin Purnawan^{**)} and R. Sugiharto^{***)}

^{*)} Faculty of Law, Universitas Sultan Agung Semarang, Indonesia, E-mail: wtuyats@gmail.com

^{**)} & ^{***)} Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang

Abstract.

The purpose of this study is to examine and analyse the factors causing the perpetrators of methamphetamine abuse. To examine and analyse the accountability of the perpetrators of methamphetamine abuse. The method used by researchers is a normative legal approach and the specifications in this research are descriptive. Secondary data sources are obtained from literature studies. Based on the results of the research, the factors that cause the perpetrators of the crime of methamphetamine abuse are, in general, the overall factors that cause a person to commit a drug crime can be divided into internal and external factors. Internal factors such as the special nature of the individual and the general nature of the individual. While some external factors include economic factors and environmental/social factors. The accountability of the perpetrators of the crime of methamphetamine abuse is generally classified as committing unlawful acts in the first category. Article 114 paragraph (1) Jo Article 112 paragraph (1) of Law No. 35/2009 on Narcotics is often the main option for law enforcement officials in imposing criminal punishment for suspects of narcotics abuse. This is related to the phrase possession, storage and control of narcotics in the criminal

Keywords: Accountability; Methamphetamine; Perpetrators.

1. Introduction

Indonesia as a sovereign state has a function to achieve the country's aspired goals. The objectives of the Unitary State of the Republic of Indonesia as stipulated in the preamble of the 1945 Constitution are to protect the entire Indonesian nation and the entire homeland of Indonesia, promote public welfare, educate the nation's life and participate in implementing world order based on independence, eternal peace and social justice.

Illegal circulation and narcotics abuse in Indonesia is increasingly upsetting, and the various varieties of bad effects can threaten the young generation and the future of the Indonesian nation.¹ Indonesia is no longer just a narcotics transit area but has become one of the exporting countries.² Narcotics abuse in Indonesia is included in narcotics crime. Narcotics crimes are included as special crimes, namely criminal acts that are regulated separately in a special law, which provides special regulations regarding the procedures for investigation, prosecution, examination, and punishment that deviate from the provisions contained in the Criminal Code.

Narcotics abuse is considered a major problem that afflicts Indonesia, cases of methamphetamine trafficking and the many arrests of international narcotics

¹ Deputi Bidang Pencegahan BNN (2017) *Narkoba dan Permasalahannya*, Badan Narkotika Nasional Republik Indonesia, Bandung, p. 1.

² Hadiman, (1999) *Narkoba: Menguak Misteri Maraknya Narkoba di Indonesia*, Badan Kerja Sama Sosial Usaha Pembinaan Warga Tama (Bersama), Jakarta, p. 2

traffickers in recent years are evidence that Indonesia is in a state of narcotics emergency. The Indonesian government puts forward the role of the Police and the National Narcotics Agency (BNN) in preventing and eradicating narcotics trafficking in Indonesia. The efforts to prevent and eradicate narcotics are carried out in three stages. First is preemptive, namely prevention efforts that are carried out early. Second, Prevention is an effort that is strategic in nature and is a medium-term and long-term action plan but must be seen as an urgent action to be implemented immediately. Third, repressive,³

Society needs a law that functions as a regulator of all human behaviour in social interaction. In carrying out its legal functions, the government can use harsher means of coercion in the form of punishment. Punishment is a reaction to an act, such as imprisonment or rehabilitation punishment that can also be given to perpetrators of narcotics abuse. In Indonesia, the law that supervises and controls the use of narcotics as well as overcoming the abuse of narcotics and the treatment of its victims is known as the narcotics law. ⁴The law that regulates Narcotics is very necessary considering its increasing distribution in various regions, both nationally and transnationally.

Narcotics crimes and illegal drugs have been transnational in nature, carried out with a high modus operandi and sophisticated technology. The misuse of narcotics encourages the existence of illicit trafficking while the illicit trafficking of narcotics causes abuse that is increasingly widespread and has an international dimension so efforts are needed to prevent and overcome narcotics abuse and efforts to eradicate illicit trafficking considering the progress of the development of communication, information and transportation in the current era of globalization.

To prevent, and eradicate abuse and illicit trafficking of narcotics which is very detrimental and endangers the lives of the people of the nation and state, it is necessary to amend Act No.22 of 1997 concerning Narcotics, to regulate efforts to eradicate narcotics crimes to be more effective. Thus, Act No.35 of 2009 concerning Narcotics was promulgated which regulates in more detail the use of narcotics for medical and health purposes and regulates medical and social rehabilitation.⁵

The danger of narcotics has gripped Indonesia, currently, Indonesia is the largest narcotics market at the ASEAN level. Strict action from security forces to carry out surveillance at the airport. Especially for foreign nationals who are couriers for narcotics brought by land, water and air to Indonesia. The circulation of narcotics has expanded even to the most remote parts of the country, this cannot be separated from the role of the courier itself. Couriers are needed by drug lords to launch their illicit business.⁶ The difficulty of employment for the poor without a steady livelihood and income will take advantage of the situation and conditions to be recruited to become narcotics couriers. Due to economic pressure, many people

³ Bayu Puji Hariyanto (2018) *Pencegahan Dan Pemberantasan Peredaran Narkoba Di Indonesia*, *Jurnal Daulat Hukum* Vol. 1. No. 1, ISSN: 2614-560X

⁴ Hari Sasangka dalam Iqbal Taufik (2017) *Kendala Dalam Pelaksanaan Pembelian Terselubung (Undercover Buy) Dalam Mengungkap Tindak Pidana Narkotika Oleh Penyidik Polri*, *Jurnal SASI* Vol, 23 No. 2, p. 119.

⁵ Siswanto. S (2012) *Politik Hukum Dalam Undang-Undang Narkotika, (UU Nomor 35 Tahun 2009)*. Rineka Cipta, Jakarta, p.1

⁶ Sudarsono (2015) *Kenakalan Remaja, Prevensi, Rehabilitasi, Dan Rasionalisasi*, Rineka Cipta, Jakarta, p.45

who in fulfilling their needs take the path prohibited by law –The law is to become a narcotics courier, so the risk caused by the work he does is very high.⁷

Efforts to overcome crime through the penal route are handled through criminal law. Roughly speaking, it can be said that efforts to overcome crime through the penal route focus more on the "repressive" nature (suppression/eradication/suppression) after a crime has occurred.⁸ Efforts to eradicate criminal acts are carried out through the criminal justice system. The criminal justice system or criminal justice system in short can be interpreted as a system in society to deal with a crime so that it is still within the limits of community tolerance.⁹ In general, in the criminal justice process, a person who has committed a crime against him will be investigated by the police if there is a complaint or is caught in the act of committing a crime.¹⁰

The purpose of this research is as follows: To study and analyze the cause of the perpetrator crime of abuse of narcotics type methamphetamine. To examine and analyze accountability for perpetrators of criminal acts of abuse of narcotics type methamphetamine.

2. Research Methods

The method used by the researcher is the normative legal approach and the specifications in this study include: descriptive. The secondary data sources were obtained from literature studies.

3. Results and Discussion

3.1. The Accountability of Criminals Act in The Methamphetamine Abuse

The Narcotics Law contains a special minimum threat to protect the public from the dangers of narcotics and eradicate narcotics abuse which is very detrimental to the community. This is possible as the provisions of Article 13 of the Criminal Code which reads: the provisions mentioned in the first eight chapters of this book, also carry out acts which according to other laws and regulations are punishable by punishment, unless otherwise stipulated by law by general regulations from the government or by some ordinance.

Perpetrators of narcotics crimes have different roles, positions, and punishments, both based on the laws and regulations governing them and based on

⁷ Khoirun Hutapea (2011) *"Pola-Pola Perekrutan Penggunaan dan Kegiatan Kurir Dalam Jaringan Peredaran Narkoba Internasional"*, Tesis, Kearsipan Fakultas Ilmu Sosial dan Ilmu Politik UI, Jakarta, p. 11

⁸ Indah Lestari, Sri Endah Wahyuningsih (2017) *Penegakan Hukum Pidana Terhadap Pengguna Narkoba Di Polda Jateng*, *Jurnal Hukum Khaira Ummah* Vol. 12. No. 3 Unissula

⁹ Rizky Adiyanzah Wicaksono and Sri Kusriyah (2018) *Implementation Of Restorative Justice Approach In Legal Protection Against Lightweight Crime By The Children*, *Jurnal Daulat Hukum* Volume 1 Issue 4 ISSN: 2614-560X

¹⁰ Hadi Noor Cahyo and Maryanto (2019) *Implementation Of The Settlement Of The Case Restorative Justice In Fights By Children Because The Effect Of Liquor (Case Study In The Polres Kudus)*, *Jurnal Daulat Hukum* Volume 2 Issue 1, ISSN: 2614-560X

the roles and impacts that can arise from their actions. ¹¹The classification of narcotics criminals can be seen from several aspects as described in Act No.35 of 2009 which was promulgated or enacted on October 12, 2009, as well as other statutory provisions relating to narcotics crimes. Criminal provisions against perpetrators of narcotics crimes are regulated in Act No.35 of 2009 concerning Narcotics.

Narcotics users who still get narcotics without rights or against the law, then there are several actions taken by the narcotics users, namely buying, controlling, storing, or owning which is ultimately used by themselves. ¹²Act No.35 of 2009 concerning Narcotics does not provide a clear distinction/line between criminal offences in Article 127 of Act No.35 of 2009 concerning Narcotics and other criminal offences contained in Act No.35 of 2009 concerning Narcotics, where users Narcotics who obtain narcotics illegally must meet the elements of "controlling", "possessing", "storing", or "buying" narcotics where this is also regulated as a separate crime in Act No.35 of 2009 concerning Narcotics.¹³

Drug abuse is closely related to illicit trafficking as part of the world of international crime. The illicit trade mafia supplies drugs so that people become dependent so that the supply increases.¹⁴ The relationship between dealers/ dealers and victims makes it difficult for victims to escape from dealers/ dealers, and it is not uncommon for victims to be involved in illicit trafficking due to their increasing need for and dependence on drugs.¹⁵

One of the first steps taken by law enforcement officers (investigators) is to study and examine the modus operandi of narcotics abuse. Every act and criminal act of a criminal nature and violation, the perpetrator of the crime has special ways to make it easier for the perpetrator to launch and achieve his evil desires. But in the context of law enforcement for actions that are contrary to the applicable laws and regulations. How the perpetrator carries out his criminal acts also affects the punishment given or imposed on the perpetrator.

Accountability Against Perpetrators of the Misuse of Narcotics Types of Methamphetamines are generally classified as committing acts against the law in the first category. Article 114 paragraph (1) in conjunction with Article 112 paragraph (1) RI Law no. 35 Th. 2009 on Narcotics often become the main option for law enforcement officers in imposing criminal punishment for narcotics abuse suspects. This is related to the phrase possessing, storing and controlling narcotics in the criminal provisions of the two articles. The punishments that are threatened in the provisions of these articles are imprisonment for a minimum of 5 (four) years and a maximum of 20 years.

¹¹ Lilik Mulyadi, 2015, *Kapita Selekta Hukum Pidana Kriminologi dan Victimologi*, Ghalia Indonesia, Jakarta, p. 90

¹² Mardani Ahmad, 2016, *Penyalahgunaan Narkotika dan Psikotropika*, Raja Grafindo, Jakarta, p. 112

¹³ Dadang Hawari, 2017, *Pencegahan Psikotropika dan Narkotika di Indonesia*, Gema Insani, Jakarta, p. 141

¹⁴ Bagas Aditya Kurniawan, Jawade Hafidz, Djauhari, *Penanganan Tindak Pidana Narkotika Dalam Rangka Untuk Menimbulkan Efek Jera (Analisis Yuridis Terhadap Pilihan Antara Sanksi Pidana Atau Rehabilitasi Di Polres Rembang)*, Jurnal Hukum Khaira Ummah Vol. 13. No. 1 Maret 2018

¹⁵ Lydia Harlina Martono dan Satya Joewana, 2006, *Membantu Pemulihan Pecandu Narkotika dan Keluarganya*, Balai Pustaka, Jakarta, P.1.

3.2. The Factors Causing Criminals Act in the Methamphetamine Abuse

Criminal law is a system of norms that determine something to do or not to do. And also determine how punishment can be imposed, as well as what kind of punishment deserves to be given.¹⁶ In principle, criminal penalties have differences from other types of law. Criminal law has a special characteristic, where the punishment given can deprive a person of independence. So that it can be said, criminal law is the last way to improve a person's behaviour.¹⁷

Law enforcement and implementation, especially in Indonesia, often face obstacles related to community development. Various cases that have occurred illustrate the difficulty of law enforcement or law enforcement officials in finding ways to make the law in line with existing societal norms. However, the development of society is faster than the development of laws and regulations, so developments in society become the starting point for the existence of regulation. In social life, a legal system is needed to create a harmonious and orderly community life. The laws or regulations that are made do not cover all cases that arise in the community, making it difficult for law enforcers to resolve the case.

Narcotics crime based on Act No.35 of 2009 concerning Narcotics provides quite heavy criminal punishment, in addition to being subject to corporal punishment and also subject to fines, but in reality, Narcotics crime in society shows an increasing trend both quantitatively and qualitatively with widespread casualties, especially among children, youth, and the younger generation in general. Circulation and abuse of narcotics be involved, if the use of narcotics is increasingly crowded, the capacity for abuse is higher. If there is a supply then there is a demand, one of the reasons for the higher circulation of narcotics is due to the unstable economic effect, the distribution of these narcotics has a very promising advantage if it is traded.

Narcotics abuse criminal acts are criminalized through legal instruments that regulate Narcotics, namely Act No.35 of 2009 concerning the Crime of Narcotics Abuse. This law expressly requires several actions that can be categorized as criminal acts of drug abuse. Several articles in the criminalized narcotics law are used as legal provisions regarding prohibited acts and are accompanied by criminal threats for anyone who violates the prohibition.¹⁸

A person who commits a crime is not only based on the intention of the perpetrator himself but is based on other factors such as the opportunity factor, in a crime in this case the opportunity factor itself is very dominant because without the opportunity all these crimes will not occur. Factors Causing Perpetrators of the Crime of Misuse of Methamphetamine Types of Narcotics, namely:

Internal factors can be divided into two, namely: Special characteristics of the individual, such as mental illness, emotional power, low mentality and anomie; General characteristics of individuals, such as age, gender, position in society, education and entertainment.

¹⁶ Lamintang, 2013, *Dasar-Dasar Hukum Pidana Indonesia*, Citra Aditya Bakti, Bandung, p. 2

¹⁷ Ibid., p. 17.

¹⁸ Hera Saputra, Munsyarif Abdul Chalim, *Penerapan Sistem Pemidanaan Terhadap Pelaku Tindak Pidana Penyalahgunaan Narkoba (Studi Kasus di Polda Jateng)* Jurnal Daulat Hukum Vol. 1. No. 1 Maret 2018 ISSN: 2614-560X

External factors, among others: The presence of the perpetrator's intention; That the intention of the perpetrator from the beginning was indeed to commit a crime to possess, store and control narcotics; Economic factors, the main thing that affects the perpetrators of narcotics abuse is the economic factor, because economic pressure with the increasing number of daily needs causes someone to use narcotics to relieve stress so that users feel the effect of relaxing and calm if they consume it and not infrequently the perpetrators also distribute narcotics due to difficult economic needs. This economic factor should not be the reason that admits the act of justification for narcotics traffickers, the perpetrators just want something immediately, and get a lot of profit, if only the perpetrators want to work then they will not fall into the circulation of narcotics; Environmental factors/associations, the second factor is free association, in this case, a social environment is a place for informal learning outside the home. One acquires knowledge of various things in the association. Negative things such as the use of narcotics are no exception. Drug abuse is a social phenomenon that often occurs in society. Even if for some reason carrying out an act that is prohibited by law, it should never be done, because it will have a bad impact on the perpetrators. It does not only have an impact on the traffickers, but the users also have an impact, even more so if the users are the younger generation, it is not uncommon for the younger generation to fall into narcotics, both as users and dealers of narcotics.

In this environment of the younger generation of narcotics, if they use it, they will be considered cool, the younger generation who is looking for their identity wants to try new things to be curious to try or use narcotics so that it has a bad impact on themselves, starting from addicts and eventually dying, entangled with the law, which makes his future bleak. The factor causing the crime is the natural approach, which is an acronym for social values, cultural aspects, and structural factors which are elements contained in every society. Cultural aspects and structural factors are two elements that influence each other in society. Therefore, the two elements are dynamic by the dynamics in the society concerned. This means these two elements cannot be avoided by external influences such as science and technology and so on. The two elements influence each other's social values in society. Thus, social values will be dynamic by the development of cultural aspects and structural factors in the society concerned.

4. Conclusion

Based on the results of the discussion and research on the problem, it can be concluded as follows: In general, the overall factors that cause a person to commit a drug offence can be divided into internal and external factors. Internal factors such as the special nature of the individual and the general nature of the individual. While some external factors include economic factors and environmental/social factors. The accountability of the perpetrators of the crime of methamphetamine abuse is generally classified as committing unlawful acts in the first category. Article 114 paragraph (1) Article 112 paragraph (1) of Law No. 35/2009 on Narcotics is often the main option for law enforcement officials in imposing criminal punishment for suspects of narcotics abuse. This is related to the phrase possession, storage and control of narcotics in the criminal provisions of the two

articles. The punishment threatened in the provisions of these articles is imprisonment for a minimum of 5 (four) years and a maximum of 20 years. It has been agreed that officials of law enforcement should improve coordination with related agencies and local governments, especially the coordination between elements of the criminal justice system so that efforts to tackle illicit trafficking and drug abuse will be achieved very well. It is hoped that the community will play an active role in assisting law enforcement officials to eradicate narcotics crimes by reporting if a narcotics crime occurs.

5. References

Journal:

- [1] Bagas Aditya Kurniawan, Jawade Hafidz, Djauhari, *Penanganan Tindak Pidana Narkoba Dalam Rangka Untuk Menimbulkan Efek Jera (Analisis Yuridis Terhadap Pilihan Antara Sanksi Pidana Atau Rehabilitasi Di Polres Rembang)*, Jurnal Hukum Khaira Ummah Vol. 13. No. 1 Maret 2018
- [2] Bayu Puji Hariyanto, 2018, *Pencegahan Dan Pemberantasan Peredaran Narkoba Di Indonesia*, Jurnal Daulat Hukum Vol. 1. No. 1, ISSN: 2614-560X
- [3] Hadi Noor Cahyo and Maryanto, 2019, *Implementation Of The Settlement Of The Case Restorative Justice In Fights By Children Because The Effect Of Liquor (Case Study In The Polres Kudus)*, Jurnal Daulat Hukum Volume 2 Issue 1, ISSN: 2614-560X
- [4] Hari Sasangka dalam Iqbal Taufik, 2017, *Kendala Dalam Pelaksanaan Pembelian Terselubung (Undercover Buy) Dalam Mengungkap Tindak Pidana Narkotika Oleh Penyidik Polri*, Jurnal SASI Vol, 23 No. 2,
- [5] Hera Saputra, Munsyarif Abdul Chalim, *Penerapan Sistem Pemidanaan Terhadap Pelaku Tindak Pidana Penyalahgunaan Narkoba (Studi Kasus di Polda Jateng)* Jurnal Daulat Hukum Vol. 1. No. 1 Maret 2018 ISSN: 2614-560X
- [6] Indah Lestari, Sri Endah Wahyuningsih, 2017, *Penegakan Hukum Pidana Terhadap Pengguna Narkoba Di Polda Jateng*, Jurnal Hukum Khaira Ummah Vol. 12. No. 3 Unissula
- [7] Khoirun Hutapea, 2011, *"Pola-Pola Perekrutan Penggunaan dan Kegiatan Kurir Dalam Jaringan Peredaran Narkoba Internasional"*, Tesis, Kearsipan Fakultas Ilmu Sosial dan Ilmu Politik UI, Jakarta,
- [8] Rizky Adiyanzah Wicaksono and Sri Kusriyah, 2018, *Implementation Of Restorative Justice Approach In Legal Protection Against Lightweight Crime By The Children*, Jurnal Daulat Hukum Volume 1 Issue 4 ISSN: 2614-560X

Books:

- [1] Dadang Hawari, 2017, *Pencegahan Psikitropika dan Narkotika di Indonesia*, Gema Insani, Jakarta
- [2] Deputi Bidang Pencegahan BNN, 2017, *Narkoba dan Permasalahannya*, Badan Narkotika Nasional Republik Indonesia, Bandung
- [3] Hadiman, 1999, *Narkoba: Mengungkap Misteri Maraknya Narkoba di Indonesia*, Badan Kerja Sama Sosial Usaha Pembinaan Warga Tama (Bersama), Jakarta
- [4] Lamintang, 2013, *Dasar-Dasar Hukum Pidana Indonesia*, Citra Aditya Bakti, Bandung

- [5] Lilik Mulyadi, 2015, *Kapita Selekta Hukum Pidana Kriminologo dan Victimologi*, Ghalia Indonesia, Jakarta
- [6] Lydia Harlina Martono dan Satya Joewana, 2006, *Membantu Pemulihan Pecandu Narkoba dan Keluarganya*, Balai Pustaka, Jakarta
- [7] Mardani Ahmad, 2016, *Penyalahgunaan Narkotika dan Psicotropika*, Raja Grafindo, Jakarta
- [8] Siswanto. S, 2012, *Politik Hukum Dalam Undang-Undang Narkotika, (UU Nomor 35 Tahun 2009)*. Rineka Cipta, Jakarta
- [9] Sudarsono, 2015, *Kenakalan Remaja, Prevensi, Rehabilitasi, Dan Rasionalisasi*, Rineka Cipta, Jakarta