

Criminal Law Enforcement Against Dealers as Drug Abuse Perpetrators in Progressive Law

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Abstract. *Law enforcement aims to create justice, certainty and benefits, in relation to drug abuse, law is one alternative solution to eradicate drug abuse, because the law contains a number of rules and provisions to ensure that the norms in the law are obeyed by the community. Drug abusers more often end up in prison than given the right to rehabilitation. The dimensions of health and recovery, both physical and psychological, through rehabilitation are less considered and tend to be sidelined. The imposition of sanctions for users should be more oriented towards the aspect of rehabilitation punishment rather than prison sentences, because this is to emphasize and clarify the sanctions between drug dealers and abusers. The approach method used is normative juridical, namely a library legal research conducted by examining library materials or secondary data only using deductive thinking methods. The writing specifications use descriptive analysis, the sources and types of data used are secondary data. The data collection method is by collecting data using secondary data collection methods. The problems are analyzed with the theory of law enforcement and the theory of legal effectiveness. For drug addicts or dealers as a substitute for imprisonment sanctions adopted from the double track system model, which is a two-track system regarding sanctions in criminal penalties, namely the type of criminal sanctions and the type of action sanctions. The guarantee of legal protection provided for drug addicts is regulated through Law No. 35 of 2009 concerning Narcotics by providing rehabilitation, both medical and social rehabilitation as stated in Article 54 of the narcotics law, namely that "drug addicts and drug abuse addicts are required to undergo medical rehabilitation and social rehabilitation. The effectiveness of law enforcement against dealers as perpetrators of drug abuse is still inconsistent with the government's implementation of the Law. So this provides a legal problem in dealing with this problem, in this case there needs to be a reconvention in the Law that can be implemented according to the circumstances that occur and does not change it at any time making this less effective*

Keywords: *Abusers; Enforcement; Narcotics.*

1. Introduction

Law is generally defined as the entirety of regulations or rules in communal life; the entirety of rules of conduct that apply in communal life that can be enforced in the form of sanctions,

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from this understanding law is seen as a means to regulate society which is a reflection and target to be achieved. This provides direction regarding the purpose of law.¹

Drug use is often associated with crime, both drugs are considered to have a negative influence and cause users to commit crimes. Crime is basically a relative formulation. Mustafa said that what is called crime as a social symptom is not merely an act that is prohibited by law, an act that is a biological abnormality or a psychological abnormality, but these acts are detrimental and violate public sentiment.²

Drug abuse encourages illicit trafficking, while illicit drug trafficking causes abuse to become more widespread and international in dimension. Therefore, efforts are needed to prevent and overcome drug abuse and efforts to eradicate illicit trafficking considering the progress of communication, information and transportation developments in the current era of globalization. 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. The relationship between the dealer/dealer and the victim makes it difficult for the victim to free themselves from the dealer/dealer, and it is not uncommon for victims to also be involved in illicit trafficking because of their increasing need and dependence on drugs.³

Law enforcement against narcotics crimes has been widely carried out by law enforcement officers and has received many judges' decisions. Law enforcement should be expected to be a deterrent factor against the increasing illicit trade and distribution of narcotics, but in reality the more intensive law enforcement is carried out, the more the distribution and illicit trade of narcotics increases.

Law enforcement against crime in Indonesia where the government as the organizer of state life needs to provide protection and welfare for the community through various policies that are agenda in the national development program. This government policy is included in social policy. One part of this social policy is law enforcement policy, including legislative policy. While the crime prevention policy itself is part of the law enforcement policy.⁴

The practice of law enforcement against drug abusers who are addicts is more oriented towards punishment than the process of integrated treatment or recovery activities, both physically and socially, to free them from drug dependence. Drug abusers more often end up in prison than given the right to rehabilitation. The dimensions of health and recovery, both physically and psychologically, through rehabilitation are less considered and tend to be sidelined. The provision of punishment for users should be more oriented towards the aspect of rehabilitation punishment rather than prison punishment, because this is to emphasize and clarify the punishment sanctions between drug dealers and abusers.

In this study, the author took a case that would be the subject of analysis, which was the case in decision Number 132/Pid.Sus/2022/PN Mkd, defendant YS Bin Basyanto, a resident of

¹Esmi Warasih, 2005, *Legal Institutions: A Sociological Study*, Semarang, PT.Suryandaru Utama, pp.23-25.

² Mustafa, Muhammad, 2007, *Criminology: Sociological Studies on Criminality, Deviant Behavior, and Law Offenders*, FISIP UI Press, p. 17

³Lydia Harlina Martono & Satya Joewana, 2006, *Helping Drug Addicts and Their Families Recover*, Jakarta, Balai Pustaka, p. 1.

⁴Mahmud Mulyadi, 2011, *Criminal Law Politics*, Faculty of Law, University of North Sumatra, North Sumatra, p. 6

Banyutempung Hamlet, Krogowanan Village, Sawangan District, Magelang Regency, which was located in the Gas Station Area 44.564.2, Jalan Tentara Pelajar No. 1 Temanggung, Muntilan District, Magelang Regency, that the defendant has legally and proven to have attempted or conspired to commit a crime of Narcotics and Narcotics Precursors, without rights or against the law, offering to sell, sell, buy, receive, act as an intermediary in buying and selling, exchanging or handing over Class I Narcotics, weighing more than 1 (one) kilogram, namely in the form of marijuana weighing 43,254 (forty-three thousand two hundred and fifty-four) grams, by means of witness SW alias Kebo ordering the defendant to take the type of Marijuana Narcotics, the place and time are still waiting for news from the person who brought the marijuana and also later there will be someone who will contact the defendant to arrange the process or hand over the marijuana to the defendant, and the defendant has offered to sell, sell, buy, receive, act as an intermediary in buying and selling, exchanging or handing over Class I Narcotics, in the form of Marijuana weighing 43,254 (forty-three thousand two hundred and fifty-four) grams, without permission from the authorized party.

Based on the problems above, the many phenomena of drug abuse crimes have become a special attraction for the author to study this in more depth by conducting research, for writing a thesis entitled "ENFORCEMENT OF CRIMINAL LAW AGAINST DEALERS AS DRUG ABUSE PERPETRATORS IN PROGRESSIVE LAW (Study of Decision No. 132/Pid.Sus/2022/PN MKD)".

2. Research Methods

The approach method used in this study is the normative legal approach. The normative legal approach is a legal research conducted by examining library materials or secondary data as basic materials for research by conducting a search for regulations and literature related to the problems being studied. Data collection is carried out through library studies by reviewing literature related to research problems. The data analysis technique is qualitative analysis in the form of exposure, description, and description of the research results.

3. Results And Discussion

3.1. Law Enforcement Against Dealers As Narcotics Abusers In Progressive Law

The rampant circulation of drugs in Indonesia is due to the many unofficial ports or commonly known as rat ports which are used as favorite places for drug dealers. There are several ways used by perpetrators in conducting drug transactions, including face to face, transactions through couriers, direct purchases at drug distribution locations, patch systems (mine planting systems), and javelin throwing systems. The sources of drugs circulating in Indonesia mostly come from abroad such as Asia, Europe, Africa and America.

There are various ways in which drugs can enter Indonesia. Some enter Indonesia directly from their country of origin, while others enter Indonesia by transiting first to Malaysia, and then being brought to Indonesia. The routes taken from these transit countries also vary. They can be by air, sea, river, or land through border areas. Sea and river routes are most widely used by perpetrators to distribute to various regions, due to the large number of small ports spread across various provinces (Kalimantan, Sumatra, and Papua) and the lack of supervision

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by authorities in these areas.⁵Lack of human resources and inadequate infrastructure are factors that weaken supervision of sea and river routes.

Prevention or handling of drug abuse is an effort taken in the framework of enforcement against the use, production and illicit trafficking of narcotics that can be done by everyone, both individuals and communities. Prevention or handling of drug abuse is an effort taken in the framework of enforcement against the use, production and illicit trafficking of narcotics that can be done by everyone, both individuals and communities.

Law enforcement is the implementation of law by law enforcement officers and by everyone who has an interest in accordance with their respective authorities according to applicable legal regulations. This understanding of law enforcement is also a series of processes to describe values, ideas, ideals that are quite abstract which are the objectives of the law. The purpose of the law is to contain moral values in the concept of justice and truth. To achieve the objectives of the law, personnel are needed in the implementation of the law, namely law enforcers.⁶

Prevention or handling of drug abuse is an effort taken in the framework of enforcement against the use, production and illicit trafficking of narcotics that can be done by anyone, both individuals and society. The definition of the police is contained in the Law in Indonesia. The law that discusses the Indonesian National Police is contained in Law No. 2 of 2002 in Article 1 paragraph (1). In Law No. 2 of 2002 Article 1 paragraph (1) states that "Police are all matters relating to the functions and institutions of the police in accordance with laws and regulations; Members of the Indonesian National Police are civil servants at the Indonesian National Police. The function of the police as one of the functions of the state government in the field of maintaining public security and order, law enforcement, protection, guardianship and service to the community.

While the police institution is a government organ that is designated as an institution and is given the authority to carry out its functions based on laws and regulations. The National Police in its efforts to prevent and overcome drug abuse, takes the following strategic steps:

a. Pre-emptive

Pre-emptive efforts carried out are in the form of educational activities (education/teaching) with the aim of influencing the causal factors that drive and opportunity factors, which are commonly called "criminological correlative" factors of drug crimes, so that awareness, alertness, deterrence, and the fostering and creation of drug-free behavioral/norm conditions are created. Namely with a firm attitude to reject drug crimes.

This activity is basically in the form of fostering and developing a simple lifestyle environment and positive activities, especially for teenagers with productive, constructive, and creative activities. While preventive educational activities are carried out using educational information communication methods, which are carried out through various channels including family, education, religious institutions, and community organizations.

b. Preventive

⁵ApriliantinPutriPamungkas, 2017 "The Role of ASEANAPOL in Eradicating Drug Trafficking in Indonesia", Journal of International Relations, Volume 3, Number 2, ,p. 93.

⁶Satjipto Rahardjo, The Problem of Law Enforcement: A Sociological Review, Bandung, Sinar Baru. 2002, p. 61.

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This effort is made to prevent drug crimes through control and supervision of official channels as well as direct supervision of illegal distribution channels with the aim of preventing Police Hazard from developing into a factual threat.

c. Repressive

Repressive efforts or enforcement are carried out by arresting drug users and dealers. Arrests are not only made against Indonesian citizens, but arrests are also made against foreign citizens involved.

3.2. Effectiveness of Law Enforcement Against Drug Dealers as Perpetrators of Drug Abuse in Progressive Law

The implementation of Law Number 35 of 2009 concerning Narcotics mandates the community, especially law enforcers, to handle drug abuse in order to guarantee efforts to regulate medical rehabilitation and social rehabilitation for drug abusers and addicts. The mandate of the law is specifically given to judges who examine and try cases of drug abusers (suspected drug abusers and in a state of high dependence).

For suspected drug abusers who are proven guilty, the judge can decide to order the person concerned to undergo rehabilitation. Likewise, for suspected drug abusers who are not proven guilty, the judge can decide to order the person concerned to undergo rehabilitation. Rehabilitation punishment is the most appropriate punishment for drug abusers who have problems with the law as an alternative or substitute for punishment, where drug abusers must undergo treatment, education, aftercare, rehabilitation and social reintegration (Article 36 of Law 8/1976 concerning the Ratification of the Single Convention on Narcotics 1961 and the Protocol that amends it).⁷

In the Indonesian criminal law system, especially the narcotics law, distributing, selling, carrying, storing or consuming without permission from the authorities is included in the category of perpetrators who violate the law. These categories have been regulated in Law No. 35 of 2009 concerning Narcotics. In Law No. 35 of 2009 concerning Narcotics, the perpetrators are categorized into two groups, namely as "distributors" and as "users". In Law No. 35 of 2009 concerning Narcotics, the definition of "narcotics dealer" is not explicitly explained. However, implicitly and narrowly, a dealer can be said to be a person who carries out the activities of distributing and handing over narcotics.

However, broadly, the definition of a drug dealer includes the dimensions of selling, buying for distribution, and includes storing, controlling, providing, carrying out activities of exporting and importing narcotics. This is stated in the provisions of Articles 111, 112, 112, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, and 125 of Law No. 35 of 2009 concerning Narcotics. While the term in the category of drug users is a person who uses substances or drugs derived from plants, either synthetic or semi-synthetic, which can cause a decrease or change in consciousness, loss of pain and can cause dependence, which are divided into groups as attached in Articles 116, 121, 126, 127, 128, and 134 of Law No. 35 of 2009 concerning Narcotics.

In practice, drug addicts are "self-victimizing victims", namely those who become victims because of the crimes they themselves commit. Because drug addicts suffer from dependency

⁷Hawari, D. 2002. Abuse & Addiction of NAZA, Jakarta: FKUI.

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syndrome due to drug abuse that they themselves do. However, the addict is expected to receive protection so that he can become better.

The implementation of rehabilitation for drug addicts as a substitute for imprisonment is adopted from the double track system model, which is a two-track system regarding sanctions in criminal punishment, namely the type of criminal sanction and the type of action sanction. This means that the focus of criminal sanctions is aimed at the wrongdoing that has been done by someone through the imposition of suffering so that the person concerned becomes deterred. While the focus of action sanctions is more directed at efforts to provide assistance to the perpetrator so that he changes.

However, if we refer to the government policy and compare it with the number of drug users in this country, which reaches 5.1 million people, then there will be confusion and inconsistency in its implementation. This indication can be seen from the handling of drug addicts in the field, including:

First, correctional institutions (Lapas) in Indonesia are mostly inhabited by drug offenders. Indeed, the condition of many prison inmates due to drugs needs to be classified between addicts, couriers, dealers or drug lords. However, if we look at the regulations related to drugs, as according to Law No. 35 of 2009 concerning Narcotics, drug addicts should receive rehabilitation instead of being detained for a long time in prison.

Second, Another visible indication of the government's inconsistency in implementing Law No. 35 of 2009 concerning Narcotics is the estimated unevenness or disproportionality of the number of IPWL in various regions with the number of drug addicts or dealers. Whereas drug addicts are almost evenly distributed throughout the region.

Third, The implementation of decriminalization in the form of drug addicts getting rehabilitation, both medical and social, is still not fully understood by the public, especially those who are not yet aware or literate about the law. So that it encourages fear and worry for those who report. Because, in the public's opinion, dealing with the law is very time-consuming and complicated and requires special expertise.

Fourth, drug addicts or being involved in drugs are still seen as a disgrace or a disgrace by most of society. Fifth, public access to legal centers or offices is not evenly distributed. This means that access to police stations or IPWL agencies is not as easy as access in urban areas or big cities, namely relatively very easy to reach, easy to reach transportation and relatively better infrastructure compared to other areas in the territory of the Unitary State of the Republic of Indonesia.

With the five things above, the government's policy in dealing with drug addicts has not been fully implemented as mandated by Law No. 35 of 2009 concerning Narcotics, namely providing guidance and treatment for drug addicts. This means that the government is still inconsistent in implementing Law No. 35 of 2009 concerning Narcotics.

4. Conclusion

Law enforcement against dealers as perpetrators of drug abuse is by carrying out several stages, one of which is the implementation of rehabilitation. For drug addicts or dealers as a substitute for imprisonment sanctions adopted from the double track system model, which is a two-track system regarding sanctions in criminal penalties, namely the type of criminal sanctions and the type of action sanctions. 2. The effectiveness of law enforcement

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against dealers as perpetrators of drug abuse is still inconsistent with the government's implementation of the Law. So this provides a legal problem in dealing with the problem, in this case there needs to be a reconviction in the Law that can be implemented according to the circumstances that occur and does not change it at any time making this less effective.

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