

Analysis of Legal Protection for Victims of Drug Abuse in the Narcotics Research Unit of the Bareleng Police, Batam City

Alex Yasral¹⁾ & Denny Suwondo²⁾

¹⁾Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia, E-mail: AlexYasral.std@unissula.ac.id

²⁾Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia, E-mail: DennySuwondo@unissula.ac.id

Abstract. *The purpose of the study is to analyze and describe the legal protection of victims of drug abuse in the Narcotics Investigation Unit of the Bareleng Police, Batam City based on the perspective of Law Number 35 of 2009 concerning Narcotics and to find out and analyze future criminal law policies in providing legal protection for victims of drug abuse in the Narcotics Investigation Unit of the Bareleng Police, Batam City. This type of research is normative legal research with a statutory approach with descriptive-prescriptive characteristics sourced from secondary data, including: primary legal materials and secondary legal materials. This secondary data includes primary legal materials, secondary legal materials and tertiary materials obtained by means of literature study, then analyzed by legal analysis. Based on evidence in the form of witness statements, clues, letters, suspect statements and confiscated evidence, my analysis to answer the formulation of the problem is what form of legal protection is given to perpetrators of drug abuse, namely that the form of legal protection from the police as the suspect's actions can be suspected of committing a crime. In addition, the results of this study show that the form of drug abuse in the Bareleng Police Research Unit, Batam City itself is divided into abusers, drug trafficking, drug production and personal prescription abuse for general abuse that occurs in the jurisdiction of the Bareleng Police, Batam City itself, namely personal abuse and drug trafficking.*

Keywords: Abuse; Legal; Protection.

1. Introduction

Geographically, Indonesia is one of the countries in Southeast Asia that is crossed by the equator and is located between the continents of Asia and Australia and between the Pacific Ocean and the Indian Ocean. Indonesia is the largest archipelagic country in the world consisting of 13,466 islands, with a population of more than 255 million people in 2015. Indonesia is a strategic country and has a high population density, making Indonesia an easy target for drug trafficking. The

results of research conducted by the National Narcotics Agency in 2015 estimated the number of drug users in Indonesia reached 5.8 million people.¹

Until now, the actual distribution of narcotics has reached a very concerning level. The distribution and abuse of narcotics is not only a problem for Indonesia but also a problem for the international arena, because it will have a negative impact on the lives of society, nation and state. The irresponsible distribution of narcotics has become increasingly widespread in society.² Currently, narcotics are not only consumed by people in big cities, but for rural communities, narcotics are no longer a rare commodity.

Along with the development of technology and information, new types of narcotics have begun to emerge. The new types of narcotics referred to are narcotics whose types or contents have been registered or not registered in the appendix of Law Number 35 of 2009 concerning Narcotics.

The problem of drug abuse has often and rampantly occurred so that it disrupts the stability of the country's economy. Both the government and the authorities in overcoming narcotics have made great efforts to prevent and suppress the crime rate related to narcotics. However, there are still individuals who try to distribute these illegal drugs so that it damages people's lives.³

Crimes such as drug abuse are no longer foreign crimes in this country, both young and old, artists and officials also use drugs a lot. People who commit a crime are called criminals and are the object of criminology, especially in this discussion about criminal etiology which analyzes the causes of evil deeds. In our daily lives in society, in order to meet the needs of life, there are often crimes and violations committed by certain people as well as people who threaten some members of society, which in legal science is known as a criminal act from the perspective of legal sociology or criminology, namely crime. Of the various types of crimes that occur in society, one of them is the problem of drug abuse.⁴

As a system, the criminal justice system has components of organizers, including the Police, Prosecutors, Courts and Correctional Institutions, all of which will be interrelated and it is hoped that there will be integrated cooperation. If there is a weakness in one of the components' work systems, it will affect other components in the integrated system. The criminal justice system can be viewed from various perspectives, including the police, prosecutors, judges, suspects/defendants, and victims of crime. Among these perspectives, the perspective of the victim of crime will bring clarity as well as perfecting other perspectives that are used as references in the implementation of criminal justice today. The justice system

¹<http://www.dw.com/id/pbb-indonesia-salah-satu-jalur-utama-penyelundupan-narkoba/a18252054>, Accessed Monday, August 28, 2024, at 19.10 WIB

²Soedjono, *Narcotics and Adolescents*, Bandung: Alumnus, 1983, p. 3

³Setiawan, *AN Juridical Analysis of Investigation Process of Narcotics Trafficking*. *Ratio Legis Journal*, 2(1), 47-56.

⁴Irwan, *Jasa Tarigan. Drug abuse and its prevention*. Yogyakarta: CV. Budi Utama. p.12

must protect everyone and justice is directed to people whose rights have been violated and people suspected of violating criminal law must be treated fairly.⁵

Narcotics and psychotropic drugs are drugs or materials that are useful in the fields of treatment, service, health, and scientific development, and on the other hand can cause very detrimental dependency if used without control, strict and careful supervision. Narcotic substances that were originally indicated for medical purposes, but in the development of science and technology, types of narcotics can be processed in such a large number and can also be misused. Abuse of narcotics in various levels and circles of society is increasing, this is because the State of Indonesia has a very large territory and this is used by syndicates as an opportunity to spread narcotics. And another thing is because Indonesia has been affected by globalization so that it is easy for people to get narcotics and then abuse the narcotics. Abuse of narcotics in the community has been worrying because of the large number of illegal narcotics circulating with various types.

To reduce the occurrence of drug abuse victims, the involvement of all parties is very necessary, the environment at home, at school and in the community. Drug abuse victims cannot be eradicated, but can be minimized through the closest environment, namely family, school, and community. Drug abuse is a serious threat to the younger generation because drug crimes have a tremendous impact on the next generation of the nation. Drug abuse cannot be allowed to continue to increase because the increasing abuse of drugs directly not only damages the physical and psychological health of its users, but also has other impacts, namely slowing economic development and declining social progress.⁶

As mentioned, the Republic of Indonesia is a country of law, the most important thing in a country of law is the existence of respect and commitment to uphold human rights and guarantees that all citizens have equal standing before the law (equality of law). Article 27 paragraph (1) of the 1945 Constitution states "All citizens have equal standing before the law and government and are required to uphold the law and government without exception". Based on this article, it can be concluded that everyone has the right to recognition, guarantee of protection, and certainty of fair law and equal recognition before the law.

In practice, there is still an imbalance in the politics of law enforcement in Indonesia, especially in terms of the treatment of perpetrators and victims of criminal acts. In the criminal justice process, many parties should have their interests protected, both the interests of the perpetrators of criminal acts, the interests of society and/or the state, and the interests of the victims. The imbalance in the protection of each interest is feared to make the purpose of the

⁵Bambang Waluyo, *Victimology of Victim and Witness Protection*, Sinar Grafika, Jakarta, 2018, p. 1

⁶Agustiningsih, H., & Wahyuningsih, SE (2018). Decision of Linked with Narcotics Convicted in Act No. 35 Of 2009 in The District of Sumber Court. *Journal of Legal Sovereignty*, 1(3), 597-604.

law, namely to bring order and peace to society and the resolution of conflicts increasingly distant.

Based on the explanation above, this study aims to analyze and describe the legal protection of victims of narcotics abuse in the Narcotics Research Unit of the Bareleng Police, Batam City based on the perspective of Law Number 35 of 2009 concerning Narcotics and to analyze future criminal law policies in providing legal protection for victims of narcotics abuse in the Narcotics Research Unit of the Bareleng Police, Batam City.

2. Research methods

The approach method used in this study is the empirical legal approach method. Based on Soetandyo Wignjosoebroto's view, empirical legal research is research in the form of empirical studies to find theories about the process of law working in society.⁷

The specifications in this research are descriptive analysis in nature, namely providing detailed, systematic and comprehensive explanations by grouping, connecting, comparing and giving meaning to the objects that are the problem.

The data used for this study are primary and secondary data. Primary data is data obtained directly from the field or from the first source and has not been processed by other parties. Then secondary data is data obtained from library research consisting of primary legal materials, secondary legal materials and tertiary legal materials.

According to Ahmad Tanzeh in his book *Practical Research Methodology*, data collection is a systematic and standard procedure for obtaining the necessary data.⁸ Data collection is an important step used to produce data in research, therefore in collecting it is necessary to pay attention to the validity of the data.

To obtain data in this study, the following data collection methods were used:

a. Field Observation

The general objective of conducting field observations is to observe directly in the open air to find the truth about something that is to be matched with human reason so that it can be accounted for and make the truth a fact and true.

b. Literature Study or Document Study

The main data collection method used in literature studies is secondary data obtained from bibliographic books, laws, and the opinions of legal experts.

The data that has been obtained is then analyzed with qualitative analysis, according to Prof. Dr. Sugiyono Qualitative research methods are called new methods, because their popularity has not been long, called postpositivistic

⁷Soetandyo Wignjosoebroto, *Law, Paradigm, Method and the Dynamics of the Problem*, Jakarta: Huma, 2002, p. 147. See also Joko Purwono, *Research Methods Law*, Department of Education and Culture RI, UNS, Surakarta, 1993, p. 17-18.

⁸Ahmad Tanzeh, 2011, *Practical Research Methodology*, Yogyakarta, Teras, p. 83.

methods because they are based on the philosophy of postpositivity. This method is also called an artistic method, because the research process is more artistic (less patterned), and is called an interpretive method because the research data is more concerned with the interpretation of data determined in the field or can be said to be data analysis without using numbers, but data obtained through research. Qualitative data analysis is carried out by examining all available data from various sources, namely from interviews, observations that have been written in field notes, personal documents, official documents, testing data with concepts, theories of related laws and answers obtained from respondents, where with this method it is expected to obtain clear data regarding the main problem.

3. Results and Discussion

Legal protection is an action or effort to protect society from arbitrary actions by the authorities that are not in accordance with the rule of law, to realize order and peace so that humans can enjoy their dignity as human beings. Meanwhile, the government also provides legal assistance as in Law Number 16 of 2011 concerning Legal Aid. In principle, legal assistance is divided into two, namely litigation and non-litigation legal assistance (Rahmat, 2017). The substance of the regulation requires law enforcers, in this case advocates as legal aid providers, to provide free legal assistance to the underprivileged in Indonesia, moreover, this obligation is a normative obligation for advocates as *officium nobile* (noble profession) and the mandate of Law Number 18 of 2003 concerning Advocates (Winarta, 2011: 101).⁹

Article 1 number 1 of Law Number 2 of 2002 concerning the Indonesian National Police, defines the police as all matters relating to the functions and institutions of the police in accordance with statutory regulations. Police officers are one of the law enforcement officers in Indonesia besides judges, prosecutors and lawyers. In accordance with its main characteristics as a law enforcement officer, the Indonesian National Police, hereinafter referred to as POLRI, has considerable authority as a law enforcer to enforce the law itself. One of them is to provide legal protection to every citizen, especially victims and suspects. Article 1 letter 3 of Police Regulation No. 8 of 2021: Restorative Justice is the resolution of criminal acts by involving perpetrators, victims, perpetrators' families, victims' families, community leaders, religious leaders, traditional leaders, or stakeholders to jointly seek a just resolution through peace by emphasizing re-election to the original state.

Rehabilitation is one of the government's efforts to overcome drug abuse. This effort is an alternative effort or action, because drug abusers are also victims of drug addiction who need treatment or care. This treatment or care is carried out through rehabilitation facilities. The determination of rehabilitation for drug addicts is an alternative punishment imposed by a judge and is calculated as a

⁹Anugrah, BD, & Witasari, A. (2021). Legal policy for management of criminal action of narcotics in low education. *Law Development Journal*, 2(4), 456-464.

period of serving a sentence. The government has stipulated regulations on narcotics in Law Number 35 of 2009 concerning Narcotics, which in Article 5 states that the regulation of Narcotics in this Law includes all forms of activities and/or actions related to Narcotics and Narcotics Precursors. Actually, there have been regulations prohibiting drug abuse, but in reality drug abuse still exists, even now the problem of narcotics is a serious problem for the Indonesian nation. This drug abuse is dangerous because it will have an effect on the user, where he will become addicted and his life will depend on narcotic substances, which if not prevented (treated), the type of narcotic used will become stronger and the dose will be greater so that it will worsen the condition of the addict.

Based on the results of the author's interview with Briptu Yakup Aprinadi Kembaren as a Personnel of the Narcotics Investigation Unit of the Barelang Police, Batam City, it was obtained that the purpose and benefits of implementing rehabilitation (rehab) will be better than implementing detention in prison/LP because rehab aims to restore and/or develop the physical, mental and social abilities of suspects, defendants or inmates in narcotics crimes or in other words the purpose of rehab is to prioritize the health aspect of the community of drug users. In terms of legal benefits, rehab is more beneficial than imprisonment because it can restore users to their original state. When the suspect/defendant is rehabilitated at the prosecution level, the rehabilitation period is calculated. Rehab punishment is a non-criminal punishment model which is precisely to eliminate or at least restrain the narcotics business from both the demand and supply sides.

The legal basis of Article 103 paragraph (2) of Law Number 35 of 2009 concerning Narcotics, which confirms that the period of undergoing treatment and/or care for narcotics addicts as referred to in paragraph (1) letter a is calculated as the period of serving the sentence. Rehabilitation aims to restore and/or develop the physical, mental and social abilities of suspects, defendants or prisoners in narcotics crimes, or in other words, the aim of rehabilitation is to prioritize the health aspect for the community of narcotics users, by implementing rehabilitation it is hoped that suspects, defendants or prisoners in narcotics crimes will improve themselves.

According to Briptu Yakup as a Personnel of the Narcotics Investigation Unit of the Barelang Police, Batam City, the implementation of rehabilitation for drug users that is fair is the absence of disparities for addicts and/or victims of drug abuse supported by the availability of sufficient budget. And if the available budget is insufficient, it still provides opportunities for addicts and/or victims of drug abuse without being charged/burdened with costs. The supervision mechanism carried out on suspects during rehabilitation is carried out by a rehabilitation institution that organizes medical and/or social rehabilitation programs for suspects, defendants, convicts in drug abuse and submits rehabilitation programs to law enforcement who request rehabilitation in accordance with the level of the judicial process.

Based on Article 1 number 1 of Law No. 35 of 2009, the definition of Narcotics is a substance or drug derived from plants or non-plants, either synthetic or semi-synthetic, which can cause a decrease or change in consciousness, loss of feeling, reduce to eliminate pain, and can cause dependence, which is divided into groups as attached in Law No. 35 of 2009 concerning Narcotics. Basically, the general nature of narcotics use is three, namely Depressants, Stimulants and Hallucinogens.

- a) Depressants have the effect of suppressing the nervous system to the point where users of this type of drug can become unconscious, and even their heartbeat can become weaker.
- b) Stimulants, which have the property of stimulating the nervous system, thus producing excessive fitness and a tendency to always be fresh and fit when using drugs, for example using crystal methamphetamine.
- c) Hallucinogens. The nature of this drug is to create forced fantasies as if they correspond to reality even though this is impossible, for example the use of ecstasy.

Of the three properties, the main target is the nervous system which will certainly change a person's level of thinking and awareness. However, what is more fatal if misused is that it causes damage to body organs, starting from the heart, lungs, liver and kidneys. So basically what is attacked is the physical and psychological aspects of a user. The form of drug abuse itself can take several forms that violate the law. The following are common forms of drug abuse:

- a) Personal use: occurs when a person uses narcotics for personal gain without permission or medical supervision and a valid doctor's prescription.
- b) Drug trafficking: this involves the activities of obtaining, possessing, distributing or selling narcotics illegally. People involved in drug trafficking are often smugglers, dealers or retailers of narcotics.
- c) Drug production: this occurs when someone makes or produces or processes illegal narcotics such as the method of making methamphetamine or growing marijuana plants.
- d) Prescription drug abuse: this occurs when a person uses or consumes drugs prescribed by a doctor but does not comply with the prescribed dosage or amount.
- e) Drug abuse in the workplace: This occurs when someone uses drugs while working or in the workplace. This can endanger the safety of others and harm work productivity.

The problem of drug abuse cannot be separated from the causal factors that cause abuse, which can be divided into 3 (three) causes, namely:

- a) Individual factors: among others due to weak personality, easily discouraged and disappointed. As a place of escape to avoid various pressures of life. The urge

to know and want to try. Feeling unnoticed, not accepted in the family environment or social environment.

b) The substance factor of the narcotic itself can cause dependency.

c) Environmental factors, including a disharmonious family environment. In the family environment there are those who become drug abusers or illegal dealers. The rise of night entertainment venues that are suspected of being places where drug transactions take place and the ease of obtaining drugs.

Drug abuse has become a serious problem not only at the local, national, but also at the international level. Drug addiction when analyzed medically is basically a brain disease. Therefore, the problem of drug addicts is not a lack of motivation to recover, but rather by changes in the mechanisms in the brain that generally require a long time to adapt and recover with a substance-free condition (abstinence). Related to this, a therapy and rehabilitation program is needed for drug disorders that are appropriate for a person, of course, not easy. This is because not all patients can respond well to one type of therapy program. The response to the therapy program depends greatly on the extent to which the program can be accepted well for the individual's needs. Now we can see that the therapy treatment program for addicts is very difficult and long.

Narcotics case data obtained from the Narcotics Research Unit staff of the Barelang Police, Batam City over the past two years are as follows:

Table 1

Prosecutor's Demands for Narcotics Cases (2022 – 2023)

No.	Year	Number of Cases	P21	SP3	Description (Assessment/ADR)
1.	2022	227	259	6	RJ
2.	2023	183	152	31	RJ
	Total	410	411	37	

Source: Narcotics Research Unit, Barelang Police, Batam City

Information:

P21: Follow-up letter regarding the handover of suspects and evidence

SP3: Letter of order to stop investigation

RJ: Restorative Justice

Assessment: an assessment action to determine the condition of residents due to drug abuse which includes medical and social aspects. In the sense that the process will be restorative justice submitted to the gnp there is a legal and medical team and submitted for rehabilitation then referred to a rehabilitation place.

From the table data above, according to the results of an interview research with Briptu Yakup Aprinadi Kembaren as a Personnel of the Narcotics Investigation Unit of the Bareleng Police, Batam City, which was conducted at the administrative staff office. For the perpetrators of abuse or dealers, the average age is around 20-45 years or at a productive age. Economic conditions vary between the lower middle class to the upper middle class. Meanwhile, the reasons for use according to the results of the interview research include those who are just trying it out to the level of dependence, searching for identity by teenagers to falling into negative things. While for the dealers themselves, the reason is economic factors, namely wanting to get the greatest possible profit in an instant way. It can be concluded that users are victims and must be rehabilitated. In addition, Batam City, which is a water area that borders directly on international shipping lanes, is a challenge in drug smuggling. The international border route in the Batam City area can be called a red zone, because this border area is often passed and becomes an access for drugs to enter and exit. In addition to having domestic and international ports, Batam City has hundreds of large and small islands. This resulted in many foreign ships stopping to smuggle drugs.

Based on the results of interviews and analysis that have been conducted, the forms of drug abuse that have occurred in the jurisdiction of the Bareleng Police Department, Batam City are various, for abusers themselves consisting of personal use and drug trafficking and the underlying factors for the perpetrators to commit such abuse are for drug users themselves due to family problems, the surrounding environment, wanting to find identity and lack of self-confidence. For dealers themselves, the underlying factors are economic demands and wanting to find money in a fast lane that is against the law. The type of narcotics that is rampant precisely in the Bareleng Police Department, Batam City is methamphetamine.

4. Conclusion

Based on the results of research and discussion that have been analyzed by the author on the form of legal protection for perpetrators of drug abuse crimes in Indonesia, precisely in the Batam City area and the results of data research that has been conducted at the Bareleng Police Department, Batam City. Based on evidence in the form of witness statements, clues, letters, suspect statements and confiscated evidence, my analysis to answer the formulation of the problem of what form of legal protection is for perpetrators of drug abuse, namely that the form of legal protection from the police as the suspect's actions can be suspected of committing a crime.

Article 1 number 1 of Law Number 2 of 2002 concerning the Indonesian National Police, defines the police as all matters relating to the functions and institutions of the police in accordance with statutory regulations. Police officers are one of the law enforcement officers in Indonesia besides judges, prosecutors and lawyers. In accordance with its main characteristics as a law enforcement officer, the Indonesian National Police, hereinafter referred to as POLRI, has considerable

authority as a law enforcer to enforce the law itself. One of them is to provide legal protection to every citizen, especially victims and suspects. Article 1 letter 3 of Police Regulation No. 8 of 2021: Restorative Justice is the resolution of criminal acts by involving perpetrators, victims, perpetrators' families, victims' families, community leaders, religious leaders, traditional leaders, or stakeholders to jointly seek a just resolution through peace by emphasizing re-election to the original state. Every abuser of class I narcotics in the form of crystal methamphetamine for themselves, as referred to in Article 127 paragraph (1) letter (a) of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, because the suspect is a user, the suspect can submit an Assessment (an assessment action to determine the condition of the resident due to drug abuse which includes medical and social aspects.) by deciding the case as referred to in paragraph (1), the judge must pay attention to the provisions as in Article 54 "drug addicts who are victims of drug abuse are required to undergo medical rehabilitation and social rehabilitation and Article 103 "The judge examining the case of a Narcotics Addict can: a.) decide to order the person to undergo treatment/care through rehabilitation if the drug addict is proven guilty of committing a drug crime; and b) determine to order the person concerned to undergo treatment/care through rehabilitation if the drug addict is proven guilty of committing a drug crime. and placed in a rehabilitation center.

The form of drug abuse in the Bareleng Police Department of Batam City itself is divided into abusers, drug trafficking, drug production and personal prescription abuse for general abuse that occurs in the jurisdiction of the Bareleng Police Department of Batam City itself, namely abuse for personal use and drug trafficking. For personal abuse, Article 127 paragraph 1 letter a of Law No. 35 of 2009 concerning narcotics is imposed, which reads "Every Narcotics Abuser of Class 1 for themselves shall be punished with a maximum imprisonment of 4 (four) years". For perpetrators of drug trafficking themselves, Article 114 paragraph 1 of Law No. 35 of 2009 concerning narcotics is imposed, which reads "that anyone without rights or who has violated the law offers, sells, buys, receives or becomes an intermediary or even exchanges or delivers class 1 narcotics will receive a life sentence or a minimum of 5 years and a maximum of 20 years. With a fine of 1 billion to 10 billion. Article 2 is imposed if "that the act of offering to sell, buy, or become an intermediary or even exchange handing over narcotics class 1 weighing more than 5 g in the form of tree trunks or non-plants, then the perpetrator will be sentenced to death, life imprisonment or imprisonment for a minimum of 6 years and a maximum of 20 years. For the type of narcotics that are rampant, namely narcotics of the methamphetamine type (class 1).

5. References

Agustiningsih, H., & Wahyuningsih, SE (2018). Decision of Linked with Narcotics Convicted in Act No. 35 Of 2009 in The District of Sumber Court. *Journal of Legal Sovereignty*, 1(3), 597-604.

- Anugrah, BD, & Witasari, A. (2021). Legal policy for management of criminal action of narcotics in low education. *Law Development Journal*, 2(4), 456-464.
- Bambang Waluyo, *Victimology of Victim and Witness Protection*, Sinar Grafika, Jakarta, 2018, p. 1
- <http://www.dw.com/id/pbb-indonesia-salah-satu-jalur-utama-penyelundupan-narkoba/a18252054>, Accessed Monday, August 28, 2024, at 19.10 WIB
- Irwan, *Jasa Tarigan. Drug abuse and its prevention*. Yogyakarta: CV. Budi Utama. p.12
- Setiawan, AN *Juridical Analysis of Investigation Process of Narcotics Trafficking*. *Ratio Legis Journal*, 2(1), 47-56.
- Soedjono, *Narcotics and Adolescents*, Bandung: Alumni, 1983, p. 3
- Soetandyo Wignjosoebroto, *Law, Paradigm, Method and the Dynamics of the Problem*, Jakarta: Huma, 2002, p. 147. See also Joko Purwono, *Research Methods Law*, Department of Education and Culture RI, UNS, Surakarta, 1993, p. 17-18.