

The Essence of Law Enforcement in Eradication Criminal Action of Narcotics Study in South Sulawesi

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Abstract: This study aims to find out and analyze and find: *First*, the essence that underlies law enforcement in combating narcotics crime; *Second*, the legal function of combating narcotics crimes, *Third*, the effectiveness of law enforcement in combating narcotics crime in South Sulawesi. The type of research used is a juridical-sociological research method or researcher who examines the applicable legal provisions and what happens in the community. The nature of the study is descriptive analytical. The location of the study was carried out in South Sulawesi as many as 24 districts/cities. The consideration is that South Sulawesi is the province with the highest level of Narcotics Crime in Indonesia outside Java.

Keywords: Law Enforcement, Narcotics Crime

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I. INTRODUCTION

Crime is a violation of norms that are increasingly in shape, both the type and form of the pattern are increasingly complex. In the current development of globalization, there are three types of emergencies facing Indonesia that are very dangerous and even threaten the future and generation of this nation, namely the abuse of narcotics, pornography and also the act of importing everything from abroad. These three conditions are a phenomenon that we now consider common but the impact for the generation and future of the Indonesian nation is very large because especially young people as a generation of people who often fall victim to enjoying it so negligent in carrying out their duties and obligations as youth and future generations nation. One of the three conditions which is at the same time included in the category of crime is narcotics abuse. Narcotics crime is a type of crime that is quite serious that threatens the future of the nation's generation, so that it needs to get proper and serious treatment.

Narcotics criminal acts are included in transnational crime or transnational crime which poses a serious threat to global security and damages the younger generation. Basically narcotics are drugs that can be used in health sciences but if misused it will cause a very deadly disease for its users and cause huge losses.

Meanwhile in South Sulawesi the Head of the South and West Sulawesi Prosecutors Office revealed that Narcotics Crime Actors experienced a significant increase in 2018 with 443 cases handled, this marked a 300% increase from the previous year (Tribun Timur, 2018). Another thing is, in South Sulawesi that from a number of regencies/cities, there are 3 (three) regions targeted by the National Narcotics Agency (BNN), namely Sidrap Regency, Pinrang Regency and Pare-Pare City (Okezone, 2018). Another thing in South Sulawesi was that the number of dealers and dealers in 2016 was 12,423 people. In 2017, there was an increase of 19,514 people. Then from the number of users in 2016 as many as 15,869 people and in 2017 experienced an increase of 21,961 people (Rakyaku News, 2018). Against this phenomenon, it can be said that the abuse and distribution of drugs is an extraordinary or extraordinary crime that threatens the world, and can be used as a proxy war to stifle the power of the nation.

Based on the phenomena that exist to the negative impact of narcotics abuse, all elements of this nation, such as the government, law enforcement agencies, educational institutions, the public and so on are taking the drug and narcotics fight seriously, both preventively and repressively. Thus, efforts to prevent and control narcotics can work effectively.

II. STATEMENT OF THE PROBLEM

1. What is the essence of law enforcement in combating narcotics crime?
2. What is the function of the law against the eradication of criminal acts of narcotics?
3. What is the effectiveness of law enforcement in eradicating narcotics crime in South Sulawesi?

III. THEORETICAL FRAMEWORK

A. Criminal Philosophy

According to M. Sholehuddin, the criminal philosophy has two functions, namely:¹

- a. The fundamental function is as a basis and normative principles or rules that provide guidance, criteria or paradigms towards criminal problems and punishment. This function is formally and intrinsically primary and contained in every teaching system of philosophy. That is, each principle that is established as a principle or rule that is recognized as a truth or norm that must be enforced, developed and applied.
- b. Function theory, in this case as a meta-theory. That is, the conviction philosophy functions as the underlying theory and background of every sentence.

Based on the two functions above in the process of implementation, the establishment of criminal sanctions and actions is a program of legislation and judicial activities to normalize the types and forms of sanctions (punishment) as the basis for the validity of law enforcement through the application of sanctions.²

The imposition of criminal sanctions on criminal offenders has a purpose that is strongly influenced by philosophy which is used as the basis for threats and criminal charges. The philosophy of punishment is closely related to justification (retaliation, benefits/utility and intended retaliation) for criminal sanctions. Criminal philosophy is a philosophical foundation for formulating a measure/basis of justice if there is a violation of criminal law. The philosophy of justice in criminal law has strong influence, there are two, namely justice based on the philosophy of retaliation (retributive justice) and justice based on the philosophy of restoration or restoration (restorative justice), and RKUHP adhering to justice philosophy leaning more towards retributive justice.

Restorative justice requires cooperative efforts from the community and government to create a condition so that victims and perpetrators can reconcile their conflicts and repair their old wounds. In addition, it also seeks to restore the security of victims, personal respect, dignity, and more importantly, a sense of control.³

Criminalization in terms of Pancasila as a system of social philosophy, has a basic component consisting of a value system, a philosophical view of Pancasila on humans and how human views on the existence of nature, human personality and God, including the State. From the point of view of the value system, in general human beings are in a world of positive values (such as: goodness, beauty, falsehood, sin and evil). Every person in his life is always actively or passively involved with the world of values.⁴

B. Theoretical Framework

1. Law Enforcement Theory

Law enforcement is the process of realizing the wishes of the law into reality. Legal desire is the thoughts of the legislature formulated in the legal regulations. The formulation of the lawmaker's mind (wetgever) as outlined in legislation will determine how law enforcement is carried out.⁵

Systematic law enforcement efforts must pay attention to 3 (three) main aspects, namely:⁶

- 1) Law enforcement institutions along with various supporting facilities and infrastructure and institutional work mechanisms,
- 2) Work culture related to its apparatus, including regarding the welfare of its officers,
- 3) A set of regulations that support both institutional performance and those regulating legal material that are used as work standards, both in terms of their material law and procedural law.

According to Soerjono Soekanto,⁷ "Law enforcement is an activity to harmonize the relationship of values outlined in the rules, views that are solid and manifest in attitude, act as a series of final stages of translation to create peace of social life". Because the establishment of the law can be characterized by several factors that are closely related to each other: First, the Law and its own rules, so that there can be a need for

¹Sholehuddin. *Sistem Sanksi Hukum Pidana: Ide Dasar Track System & Implementasinya*. Jakarta: PT. Raja Grafindo Persada, 2003, pp. 80 – 81.

²*Ibid.*

³Allison Morris, and Warren Young. "Reforming Criminal Justice: The Potential of Restorative Justice." In *Restorative Justice Philosophy to Practice*, edited by Heather KristianStrang and John Braithwaite. Britania Raya: Ashgate Publishing Ltd., 2000, p. 14.

⁴Achmad Fauzi, Soetomo, Sri Wahyuningsih, and Mohammad Noor Syam. *Pancasila: Ditinjau dari Segi Historis, Segi Yuridis Konstitusional dan Segi Filosofis*. Malang: Lembaga Penerbitan Universitas Brawijaya, 1981, p. 173.
*Vide*Sholehudin. *Op.cit.*, p. 105.

⁵Barda Nawawi Arief. *Bunga Rampai Kebijakan Hukum Pidana*. Bandung:PT. Citra Aditya Bakti, 2002, p. 27.

⁶Team Solusi Hukum, *Masalah-masalah Penegakan Hukum di Indonesia* vol. 1 tahun 2002, volume II tahun 2006, accessed from: <http://www.indonesiabunner.com/ekscange/view.php>, 02 Mei 2011.

⁷Soerjono Soekanto. *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*. Jakarta: Rajawali Pers, 1983, p. 3.

harmony between existing laws and regulations. Second, the legal implementation facilities are adequate, because often the law is difficult to enforce and not even handled because facilities to enforce it are neither adequate nor available. Third, legal awareness and certainty and the behavior of the community itself. Fourth, mental law enforcement officers. In this case, the legal actors are directly like the police, prosecutors, lawyers, judges, officers of prisons, because basically law enforcement is very dependent on the mentality of the law enforcement officers.

From the above opinion, it is clear that law enforcement in addition to being determined by its own legal rules, facilities, mentality of law enforcement officers, also depends on factors of community awareness and compliance, both personally and within their respective social communities. So that the existence of good and right law does not automatically guarantee the life of the people who are good and right. The presence of police, prosecutors, judges, lawyers as direct and formal law enforcers has not guaranteed the establishment of law and the enactment of the rule of law.

Furthermore, law enforcement efforts are also inseparable from the criminal justice system originating from the words "system" and "criminal justice". Understanding of "system" can be interpreted as a series of a number of elements that are interrelated to achieve certain goals. "Criminal justice" is a mechanism for criminal proceedings aimed at punishing or freeing someone from a criminal charge. In relation to the system with criminal justice, the implementation is carried out in a criminal justice system. The ultimate goal of this justice is nothing but the achievement of justice for the community.⁸

According to RomliAtmasasmita,⁹ the Criminal Justice System can be seen from the perspective of a normative approach which views the four apparatus (police, prosecutors, courts, and correctional institutions) as implementing institutions for applicable laws and regulations so that the four apparatus are an integral part of the law enforcement system solely, a management or administrative approach that views the four law enforcement officials as a management organization that has a working mechanism, both horizontal and vertical in accordance with the organizational structure applicable in the organization. The system used is an administrative system, a social approach that views the four law enforcement officers as an inseparable part of a social system so that society as a whole is partly responsible for the success or failure of the four law enforcement officers in carrying out their duties. The system used is a social system. The three forms of the approach are different but cannot be separated from each other. Even further, the three approaches influence each other in determining the benchmark for success in tackling crime.

The Criminal Justice System must be seen as the network of courts and tribunals which deal with criminal law and enforcement. Understanding the system in this case must be seen in the context of both a Physical System in the sense of a set of elements that work in an integrated manner to achieve a goal, as well as an Abstract System in the sense of ideas that are organized in order to differ from each other in dependence.¹⁰

2. Theory of Legal Effectiveness

The operational conception of the operation of law in society is brought about by Robert B. Seidman and William J. Chambliss, who state that the success of implementing legislation depends on many factors¹¹. Broadly speaking, the workings of law in society will be put forward by several main factors as follows:

- a. Juridical normative (concerning the making of laws and regulations)
- b. Enforcement (parties and government roles)
- c. As well as factors that are sociological juridical (concerning economic considerations and legal culture of business people)

3. Criminal Theory

The first requirement in criminal prosecution is a criminal offense. It is stated that criminal acts are 'acts that are prohibited by law and threatened with crime, those who violate them'.¹² This definition refers to the nature of the prohibition of certain acts under certain criminal threats if violated.

The use of criminal terms is defined as criminal sanctions. For the same understanding, other terms are often used, namely penalties, punishments, convictions, criminal charges, criminal penalties, and criminal penalties. Sudarto gives the definition of criminal as suffering which is deliberately charged to people who

⁸Firmansyah. *Pengertian Sistem Peradilan Pidana*, accessed from: <http://www.shvoong.com/law-and-politics/criminal-law/2027069-pengertian-sistem-peradilan-pidana/>

⁹RomliAtmasasmita. *Sistem Peradilan Pidana: Perspektif Eksistensialisme dan Abolisionisme*. Bandung: Eresco, 1996, pp. 16 – 18.

¹⁰Muladi. *Kapita Selekta Sistem Peradilan Pidana*. Semarang: Badan Penerbit Universitas Diponegoro, 1995, p. 15.

¹¹Suteki. "Rekonstruksi Politik Hukum Tentang Hak Menguasai Negara atas Sumber Daya Air Berbasis Nilai Keadilan Sosial: Studi Privatisasi Pengelolaan Sumber Daya Air." *Disertasi*. Semarang: Program Doktor Ilmu Hukum Universitas Diponegoro, 2008, p. 34.

¹²Moeljatno. *Perbuatan Pidana dan Pertanggungjawaban dalam Hukum Pidana*, Jakarta: PT. Bina Aksara, 1983, p. 11.

commit acts that fulfill certain conditions. Whereas Roeslan Saleh interpreted the criminal as a reaction to the offense, and this manifested a sorrow that was deliberately inflicted by the State on the offender.¹³

There are three main groups of theories to justify criminal imposition, namely:

1) Absolute Theory

The foundation of this theory is retaliation. This is the justification of the imposition of suffering in the form of crimes on criminals. The state has the right to impose a crime because the criminal has attacked and raped the rights and legal interests (personal, community or state) that have been protected. Criminal imprisonment which is basically suffering to criminals is justified because criminals have made suffering for others.¹⁴

This theory aims to satisfy the vindictive parties both the people themselves and those who are harmed or become victims. The absolute theoretical approach places his ideas on the right to impose a harsh sentence, arguing that because someone is responsible for his actions, he should have received the sentence handed down to him.¹⁵

2) Relative Theory

The theory is relatively based on the basis that criminal is a tool to enforce order (law) in society. The criminal aim is public order, and criminal law is required to uphold the order.¹⁶

In general, the main characteristics or characteristics of this relative theory are as follows:¹⁷

- a) The aim of Criminal is prevention.
- b) Prevention is not the final goal but only as a means to achieve a higher goal, namely the welfare of the community.
- c) Only violations of the law can be blamed on the offender who qualifies for the existence of a criminal
- d) Crime must be determined based on its purpose as a tool for crime prevention.
- e) Criminal looking forward (prospective), criminal can contain elements of abuse, but both elements of abuse and elements of retaliation cannot be accepted if they do not help prevent crime for the benefit of public welfare.

3) Combined Theory

This combined theory can be divided into two major groups, namely as follows:¹⁸

- a) Combined theory that prioritizes retaliation, but the retaliation should not exceed the limits of what is necessary and sufficiently can be maintained by public order.
- b) Combined theory that prioritizes the protection of public order, but the suffering of being punished by a crime must not be more severe than that of the convicted person.

4) Sanction Theory in Criminal Law

If viewed from criminal theories, sanctions for action are sanctions that do not reciprocate. It is solely aimed at special prevention, namely protecting the public from threats that can harm the interests of the community. In short, criminal sanctions are oriented to the idea of imposing sanctions on the perpetrators of an act, while sanctions for action are oriented towards the idea of community protection. Because criminal sanctions and sanctions for actions have different basic ideas, goals and characteristics, the two types of sanctions are set in equal or equal positions in legislation.

The problem of determining sanctions in criminal law, whatever types and forms of sanctions must be based and oriented towards the purpose of punishment. After the purpose of the conviction is determined, then what types and forms of sanctions are most appropriate for the perpetrators of crime are determined. Determination of sanctions at this stage of the legislation policy, according to Barda Nawawi Arief, must be the strategic planning stage in the field of criminal justice which is expected to give direction in the following stages, namely the stage of implementing the criminal and implementing sanctions.

5) Monitoring Theory

According to Sujamto, in the Indonesian language the controlling function has a view of supervision and control. This supervision is in a narrow sense, which Sujamto¹⁹ has defined as all efforts or activities to know and assess the actual reality of the implementation of the task or work whether it is appropriate or not. The

¹³Mahrus Ali. *Dasar-Dasar Hukum Pidana*. Jakarta: Sinar Grafika, 2012, p. 186.

¹⁴AdamiChazawi. *Pelajaran Hukum Pidana*. Jakarta: Rajawali Pers, 2002, p. 157.

¹⁵Mahrus Ali. *Op.cit.*, p. 187.

¹⁶AdamiChazawi. *Op.Cit.*, p. 161.

¹⁷Muladi, and Barda Nawawi Arief. *Teori dan Bunga Rampai Hukum Pidana*. Bandung: PT. Alumni, 1992, p. 17.

¹⁸AdamiChazawi. *Op.Cit.*, p. 166.

¹⁹Sujamto. *Beberapa Pengertian di Bidang Pengawasan*. Jakarta: Ghalia Indonesia, 1983, p. 17.

control is a more forceful understanding than supervision, namely all efforts or activities to guarantee and direct the implementation of tasks or workers to run accordingly.

C. Narcotics Crime

Provisions regarding Narcotics crime are regulated in Law No. 35 of 2009 concerning Narcotics. The establishment of this Law is the consistency of Indonesia's proactive attitude in supporting the international movement in combating all forms of Narcotics crime.²⁰ Law Number 35 of 2009 concerning Narcotics consists of 17 chapters and 155 articles. There are two types of criminal acts stipulated in this Act, namely: 1) Narcotics Crime, and 2) Narcotics Precursor Actions

Narcotics are substances/drugs/drugs that when entering into the human body will affect the body, especially the brain/central nervous system, causing physical, psychological, and social function disorders due to habits, addiction (addiction) and dependencies (dependencies).²¹

Narcotics is a substance/drug that is generally used by the health service sector, which focuses on prevention efforts from the point of view of physical, psychological, and social health. Drugs are often referred to as psychoactive substances, namely substances that work in the brain, causing changes in behavior, feelings, and thoughts.²²

The act of abuse and circulation of narcotics qualified as a crime according to the Narcotics Law, by Barda Nawawi is compiled in 15 (fifteen) criminal acts, as follows:²³

- a. Plant, maintain, have in stock, own, store or control narcotics (in the form of plants or not plants); (articles 78-79);
- b. Producing, processing, exporting, converting, assembling, providing narcotics (article 80);
- c. Bringing, sending, transporting, transiting narcotics without rights, and against the law (Article 87);
- d. Importing, exporting, offering for sale, distributing, selling, buying, handing, receiving, broking in buying and selling or exchanging narcotics without rights and against the law (Article 82);
- e. Evil trials or consensus to commit a crime in articles 78 to 82 above;
- f. Without rights and against the law, use narcotics against other people or provide Narcotics for other people's use (Article 85);
- g. Parents/guardians of addicts are not old enough to deliberately not report (Article 86);
- h. Addicts are old enough or their families (parents/guardians) who intentionally do not report (Article 88);
- i. Using children not old enough to commit narcotics crimes (Article 87);
- j. Drug factory administrators who do not carry out obligations under articles 41 and 42 that do not include labels on narcotics packaging and publish narcotics outside the medical/pharmaceutical scientific print media (Article 89);
- k. Obstructing or complicating investigations, prosecutions or examinations in court (Article 92);
- l. A pilot or pilot captain without rights and against the law does not implement the provisions of articles 24 and 25, among others, does not make an official report on narcotics content, does not report the presence of narcotics charges to the Head of the local Customs Office (Article 93);
- m. Investigators (PPNS/Polri) who are against the law and do not implement the provisions of articles 69 and 71, between lan not carrying out sealing and making the minutes of seizure, not informing or submitting confiscated goods, not destroying the narcotics plant found (Article 94);
- n. Witnesses who give false information before the court hearing (Article 95).

Some provisions related to the formulation of criminal sanctions in the narcotics law, especially those relating to criminal substitution, namely fines, still cause problems and tend to be ineffective. This happens because of the imbalance between the number of fines and criminal substitutes. As an example of a provision in Article 137 Law No. 35 of 2009 which states that every person who spends, invests, transfers money and so on derived from narcotics criminal offenses is punished with a minimum imprisonment of 5 years and a maximum of 15 years and a fine of at least 1 billion and a maximum of 10 billion. This fine can be replaced with a maximum of 2 years in prison.

Criminal penalties as an instrument of punishment for achieving the goal of punishment are one of the main types of criminal offenses as stipulated in the Criminal Code article 10, which are punishments in the form

²⁰Azis Syamsuddin. *Tindak Pidana Khusus*. Jakarta: Sinar Grafika, 2011, p. 89.

²¹Ida ListyariniHandoyo. *Narkoba: Perlukah Mengenalnya?*. Jakarta: Pakar Raya, 2006, p. 15.

²²Erwin Mappaseng. *Pemberantasan dan Pencegahan Narkoba yang Dilakukan oleh Polri dalam Aspek Hukum dan Pelaksanaannya*. Surabaya: Buana Ilmu, 2002, p. 2.

²³Barda Nawawi Arief. *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan*. Jakarta: Kencana Prenada Media Group, 2007. pp. 186 – 187.

of basic punishments, namely death penalty, imprisonment, imprisonment, and fines; and additional punishments in the form of revoking certain rights, seizing certain items, and announcing the judge's decision.²⁴

D. Narcotics Use for Medical Purposes

Basically narcotics is intended for human interests, especially for medicine (health) and for the development of science. The use of narcotics in doses regulated by doctors for the benefit of medicine does not have an effect on the human body. Conversely, if the use of narcotics without the supervision of doctors and pharmacists causes addiction and life depends on narcotics. If this situation is not prevented, the type of narcotics used will be stronger and the influence will be greater.

E. Due to Narcotics Abuse

The abuse of narcotics is indeed very complex because it is an interaction of 3 factors which are the causes, namely Narcotics, Individuals and the environment. The first factor, namely narcotics, is talking about the pharmacology of substances including type, dosage, method of use, effect on the human body and the availability and control of circulation. Meanwhile from the individual point of view, narcotics abuse must be understood from complex behavioral problems that are also influenced by environmental factors. Besides heredity (family).

Drug abuse is very dangerous because it can affect the nervous system, resulting in addiction, and dependence, because it affects the nervous system. Narcotics causes changes in behavior, feelings, perceptions, and awareness. The use of narcotics in general that is not in accordance with the rules can cause harmful effects on the body.

1. Narcotics Addicts

Based on the general provisions of Article 1 paragraph (13) of Law No. 35 of 2009, it is stated that what is meant by narcotics addicts is a person who uses or misuses narcotics and is in a state of dependence on narcotics, both physically and psychologically. Referring to the provision, it is understood that what is meant by narcotics addicts are: (1) people who use narcotics, and (2) people who abuse narcotics. Drug abuse is people who use narcotics without rights or against the law.²⁵

2. Narcotics are Often Misused

Based on the search results of narcotics cases, both in the police and at the National Narcotics Agency (BNN), it is known that the types of narcotics that are often misused are:

- a. Opiodia (morphine, heroin, putauw and others); is a class of substances that have similar working power, some are natural, synthetic and semi-synthetic. The potential for relieving pain and causing heroin dependence is ten times that of morphine
- b. Cannabis (marijuana, cimeng, gelek, hasis); Cannabis contains THC (Tetrahydro-Cannabinol) which is psychoactive and is usually shaped like dried leaves, rolled and lit like cigarettes.
- c. Cocaine (cocaine, crack, coca leaf, coca paste); derived from the coca plant stimulant group, used by suctioning through the nose, smoked or injected.
- d. Amphetamine group (amphetamine, ecstasy and methamphetamine); how to use it by drinking it, sucking it through the nose and injecting it into a blood vessel.
- e. Hallusinogen group (lysergic acid/LSD); usually in the form of pills or capsules and their use is placed on the tongue.

3. Formulation of Narcotics Criminal Sanctions

Some provisions related to the formulation of criminal sanctions in the narcotics law, especially those relating to criminal substitution, namely fines, still cause problems and tend to be ineffective. This happens because of the imbalance between the number of fines and criminal substitutes. As an example of a provision in Article 137 Law No. 35 of 2009 which states that every person who spends, invests, transfers money and so on derived from narcotics criminal offenses is punished with a minimum imprisonment of 5 years and a maximum of 15 years and a fine of at least 1 billion and a maximum of 10 billion. This fine can be replaced with a maximum of 2 years in prison.

Criminal penalties as an instrument of punishment for achieving the goal of punishment are one of the main types of criminal offenses as stipulated in the Criminal Code article 10, which are in the form of basic punishments, namely capital punishment, imprisonment, imprisonment, and fines; and additional punishments in the form of revoking certain rights, seizing certain items, and announcing the judge's decision.²⁶ In the

²⁴Kitab Undang-Undang Hukum Pidana (KUHP)

²⁵Article 1 Ayat (15) UU No. 35 Tahun 2009 tentang Narkotika.

²⁶Kitab Undang-Undang Hukum Pidana (KUHP)

development of punishment in Indonesia, criminal penalties as an alternative to punishment have been accommodated by the state as criminal politics. This has been reflected in the number of laws and regulations which also include criminal penalties as criminal sanctions, even in the Criminal Procedure Code the threat of criminal penalties is almost in the form of criminal threats in every article governing crime. Regulation of criminal fines in Law Number 35 of 2009 concerning narcotics is done by accumulating threats of criminal penalties with the threat of deprivation of independence. Thus the perpetrators of crimes that violate the articles which are regulated in a cumulative criminal fine and deprivation of independence, the judge must decide criminal penalties and imprisonment together.

F. Law Enforcement in the Eradication of Narcotics Crimes

Crimes related to Narcotics include special crimes, where the provisions used include, among other things, the law using special provisions. Called a special criminal offense, because drug offenses do not use the Criminal Code as a basis for regulations, but use the Republic of Indonesia Law No. 35 of 2009 concerning Narcotics.²⁷

The forms and sanctions for narcotics crimes are classified as follows:

1. As a User

The classification of drug users is people who use drugs without rights or against the law. In this classification, the use of criminal provisions is based on Article 116 of Law Number 35 Year 2009 concerning Narcotics, with a maximum penalty of 15 years.

2. As a Dealer

The form of criminal acts as a distributor in question is any activity or series of activities of distribution or surrender in the context of non-trading and drug transfer. This criminal form is subject to criminal provisions based on Article 81 of Act Number 35 of 2009 concerning Narcotics, with the threat of the longest sentence of 15 plus fines.

3. As a Producer

The form of criminal acts as the intended producer is a person who conducts activities or prepares, processes, makes and produces narcotics directly or indirectly. In this criminal form, criminal provisions are subject to Article 113 of Law Number 35 Year 2009 concerning Narcotics, with the threat of a maximum sentence of 15 years/lifetime/death plus fines.

IV. DISCUSSION

A. The Essence of Law Enforcement in the Eradication of Narcotics Crimes

Eradication of criminal acts of narcotics is part of criminal law enforcement activities, namely activities to implement criminal legislation by law enforcement officials by using the means of reasoning. The reason policy is a science as well as an art which in the end has a practical purpose to enable positive law regulations to be better formulated and provide guidance not only to legislators, but also to the courts that apply the law and also to the organizers or executor of court decisions.

Provisions that give authority to the National Narcotics Agency to carry out arrests with a period exceeding the arrest period in criminal procedure²⁸ are contrary to the principles of justice and legal certainty as contained in Article 3 of Law No. 35 of 2009 concerning Narcotics, and equal treatment to everyone.

Narcotics abuse is a form of action by using narcotics illegally or in contravention of applicable laws and regulations. Narcotics is basically a type of drug that is very useful for medical purposes. Legal use of narcotics and carried out under the supervision and guidance of health workers who have the expertise and authority for it is not a crime. Therefore, criminal acts of narcotics abuse have the meaning that narcotics have been used for other purposes, not for the benefit of media or scientific development, and not in accordance with procedures as stipulated in the narcotics law. Such use is referred to as narcotics abuse or wrong use of narcotics and then classified as a form of criminal offense.

Circulation of narcotics in Indonesia when viewed from a judicial aspect is legal, the Narcotics Law only prohibits the use of narcotics without permission by the law in question. The use of narcotics is often misused not for the benefit of medicine and science when viewed from such conditions at the empirical level²⁹. The use of narcotics can result in dependency syndrome if the user is not under the supervision and guidance of a health worker who has the expertise and authority for it. This is not only a loss for abusers, but also can have social impacts.

Therefore, law enforcement efforts on the occurrence of a criminal act are carried out thoroughly by law enforcement officers in all fields, so the steps of the police in both raids and arrests of perpetrators of

²⁷SulisSetyowati. *Tindak Pidana Khusus*, accessed from: <https://slissety.wordpress.com/tindak-pidanakhusus/>

²⁸UU No. 8 Tahun 1981 tentang KUHP, Article 29 ayat (1) menyatakan: Penangkapan sebagaimana dimaksud dalam Article 17, dapat dilakukan untuk paling lama satu hari.

²⁹Fernandes Edi SyahputraSilaban, Liza Erwina, and Mahmud Mulyadi. "Kebijakan Hukum Pidana Terhadap Pengaturan Tindak Pidana Narkotika di Indonesia." *Jurnal Mahupiki* 1, no. 1 (2013), p. 5.

narcotics abuse are in accordance with the Criminal Procedure Code. This was done by the police also to protect themselves so that the arrest process of narcotics and psychotropic crimes does not violate the rules, so it does not cause lawsuits for the police who arrest the perpetrators of criminal acts.

B. The Function of Law Enforcement and Society in Eradicating Narcotics Crimes

1. The Function of the Indonesian Police in Narcotics Crime Management

In carrying out its duties the police are bound and obliged to adhere to all legal rules that are related without exception, both in terms of prevention (preventive) and repression (repressive). One of the tasks of law enforcement for justice and order is the eradication of criminal acts of narcotics as stipulated in Law No. 35 of 2009 concerning Narcotics.

In accordance with the provisions of Article 81 of Law No. 35 In 2009 it was stated that Indonesian National Police investigators and BNN investigators were authorized to conduct investigations into the abuse and illicit trafficking of narcotics. Furthermore in the provisions of Article 84 of Law No. 35 In 2009 it was stated that in conducting investigations into the misuse and illicit circulation of narcotics, the Republic of Indonesia National Police investigator notified in writing of the investigation of BNN investigators as well as vice versa. Based on the provisions above, it was understood that the Indonesian National Police Its duty is to deal with narcotics crimes in collaboration with the National Narcotics Agency and investigators and relevant departments.

Efforts to eradicate narcotics crimes can also be done preventively as well as repressively. Preventive eradication efforts are carried out by Polrestabes in collaboration with Bappenkar through the distribution of brochures, appeal boards, seminars on the dangers of narcotics abuse. While the repressive eradication of narcotics crimes is carried out in the context of the POLRI's efforts to disclose criminal acts that occur through investigation and investigation. At the investigation of narcotics crime in this case narcotics unit. This kind of division of tasks is found in every Regional Police in Indonesia.

Drug abuse is a danger that is very detrimental to a country. This is because the crime of narcotics by the young generation will have a negative impact both physically and spiritually from the younger generation, thus giving a huge loss to the State and nation of Indonesia. Therefore, every effort that leads to a narcotics crime must be prevented. This shows that efforts to pay off must be increased for every type of narcotics crime. This is one of the main tasks of the police as implementing law enforcement in Indonesia.

The Indonesian National Police (POLRI), as the frontline in the fight against narcotics in Indonesia, especially in South Sulawesi, continues to try to prove its ability to eradicate narcotics abuse. Based on the results of research throughout 2014 to December 2017, the police have tried to show achievements through various preventive actions and disclosure of cases related to narcotics abuse and dismantling their trade networks.

2. Authority of the National Narcotics Agency (BNN)

Based on Law No. 35 of 2009 concerning Narcotics, the National Narcotics Agency is designated as a Non-Ministerial Government Institution (LPNK) and strengthened its authority to conduct investigations and investigations. Law No. 35 of 2009 has given great authority to the National Narcotics Agency (BNN) to supervise and prevent and eradicate criminal acts of narcotics abuse. The authorities possessed by the National Narcotics Agency are among others authorized to conduct investigations, investigations, intercepts and prosecutions in narcotics crimes. In addition, the National Narcotics Agency can involve the community by monitoring, directing and increasing their capacity to prevent drug abuse. This can be done by empowering community members.

The existence of the National Narcotics Agency in accordance with Keppres RII No.17/2002 dated 22 March 2002, in the context of overcoming and eradicating illicit drug trafficking, it should be more active to coordinate relevant government agencies in policy formulation and implementation in the field of availability, prevention and eradication of illicit narcotics, psychotropic, precursors and other additives.

According to the provisions of Article 81 of Law No. 35 of 2009 concerning narcotics, both the National Narcotics Agency and the police, both have the authority to conduct investigations and investigations into Narcotics criminal cases. While the provisions of article 84 of Law No. 35 of 2009 stated that in conducting an investigation into the abuse and illicit circulation of narcotics, the Republic of Indonesia National Police investigator notified in writing of the investigation of the BNN investigator and vice versa. This is of course intended so that there are no cases of overlapping or overlapping handling of the two law enforcement agencies against a narcotics case. However, with the existence of differences in authority possessed by the two law enforcement agencies, the issue of arrest will be a separate problem that needs to be resolved and dealt with properly, so as not to harm the sense of justice in the community and not cause institutional problems between the two. In addition, Law No. 35 of 2009 concerning Narcotics also does not make a strict separation, regarding the types of narcotics cases that will be handled by the BNN, with the types of narcotics cases that are under the

authority of the police. The absence of strict separation in this case can result in overlapping of authority between two law enforcement agencies, namely the National Narcotics Agency and the police.

Given the magnitude of the authority that the BNN has as a State tool that serves to uphold the rule of law in combating and overcoming narcotics crimes, an external oversight body or institution should be established to create protection, security and fulfillment of justice for Indonesian citizens as civilized nations. The authority to do under cover buying and controlled delivery will have an effect on the verification process, because all parties that sell or buy must be disclosed in court. On the other hand supervision is only at the supervisor level.

The low level of public confidence in the seizure and destruction of evidence is also a problem. The Narcotics Law has attempted to make a legal breakthrough, so that the seizure and destruction of evidence is carried out more quickly than by using the rules in criminal procedural law as stipulated in the Criminal Procedure Code. Therefore, the seizure and destruction of evidence must be carried out more transparently both to the suspect and to the community at large.

3. Role of Judges in Eradicating Narcotics Crimes

Enforcement of criminal law is a policy carried out through several stages including the application and execution stages. The application phase is the application of criminal law carried out by law enforcement officials, namely the police, prosecutors and judges. This stage is usually called the judicial stage. The execution stage is the stage of implementing a judge's decision called executive or administrative policy.³⁰

At the stage of implementing the decision, in this case the role is the judge. The judge after conducting an examination in a criminal court case where he first listens to the public prosecutor's charges, listens to witnesses and listens to the defense of the public prosecutor and based on his conviction to issue a verdict. In many cases, sometimes the judge's decision injures a sense of community justice. Just look at the judge's decision to relieve the convict and even free the defendant from everything the public prosecutor alleged.

Judges in handling cases must not be influenced by any force, of course, becoming the ideal of the people for law enforcement. Judges in handling cases must not ignore ethics, values and norms of course become the hope of the community to create court authority. Then more importantly the judge must be independent³¹ in carrying out professional responsibilities according to the norms, rules and professional code of ethics. The judge must build public trust, that the law is truly carried out as fairly as possible by the judge.

4. Community participation

In addition to giving great authority to law enforcement, especially the National Narcotics Agency, Law No. 35 of 2009 also gives the community the right of responsibility to play an active role in efforts to prevent and eradicate Narcotics. Community rights are manifested in the form³²:

- a. Search for, obtain and provide information on allegations of Narcotics crime;
- b. Obtaining service in seeking, obtaining and providing information about the alleged occurrence of Narcotics crime, to law enforcers or National Narcotics Agency handling cases of Narcotics crime;
- c. Delivering suggestions and opinions responsibly to law enforcement or National Narcotics Agency handling cases of Narcotics crime;
- d. Obtain answers to questions about reports given to law enforcement or BNN;
- e. Obtaining legal protection when the person concerned is exercising his rights or being asked to attend the judicial process.

Community participation in efforts to prevent and eradicate narcotics abuse and trafficking can be formed in a container coordinated by the National Narcotics Agency. However, the rights and responsibilities of the community as mentioned above are actually a form of obligation. this can be understood by looking at the provisions of Article 131 of Law No. 35 of 2009 concerning Narcotics. This provision states that anyone who intentionally does not report a crime of abuse and illicit drug trafficking is punished with a maximum of 1 (one) year imprisonment or a maximum fine of Rp. 50,000,000 (fifty million rupiah).

5. Rehabilitation of Narcotics Users

Article 54 of Law Number 35 of 2009 concerning Narcotics states that narcotics addicts and victims of narcotics abuse must undergo medical rehabilitation and social rehabilitation.

³⁰Monang Siahaan. *Pembaruan Hukum Pidana Indonesia*. Jakarta: Grasindo, 2016, p. 3.

³¹Article 25 Undang-Undang Dasar Negara Republik Tahun 1945 ditentukan bahwa syarat-syarat untuk menjadi dan diberhentikan sebagai hakim ditetapkan oleh undang-undang. Hal ini dimaksudkan untuk memberikan jaminan agar hakim dalam melaksanakan tugasnya dapat dengan sungguh-sungguh dan memiliki independensi, secara merdeka, terlepas dari pengaruh kekuasaan pemerintah atau kekuasaan lain dalam masyarakat.

³²Article 106 UU No. 35 Tahun 2009 tentang Narkotika.

Article 1 paragraph (16) of Law Number 35 Year 2009 concerning Narcotics states that Medical Rehabilitation is a process of integrated medical activities to free addicts from Narcotics dependence. Article 1 paragraph (17) of Law Number 35 of 2009 concerning Narcotics states that social rehabilitation is an integrated process of recovery activities, both physical, mental and social, so that narcotics addict files can return to carrying out social functions in people's lives.

Explanation of Article 54 of Law Number 35 Year 2009 concerning Narcotics states that what is meant by "Victims of narcotics abuse" is someone who accidentally uses narcotics because of being persuaded, deceived, cheated, forced, and/or threatened with using narcotics.

Drug addicts have a slightly different position than other criminal offenders, namely the problem of narcotics addicts according to the provisions of the law. On the one hand, they are perpetrators of narcotics abuse, but on the other hand are victims. Drug addicts according to the law on the one hand are perpetrators of criminal acts of narcotics abuse is the existence of a narcotics law that regulates prison sentences given to perpetrators of narcotics abuse. Then, on the other hand it can be said that according to the narcotics law, the narcotics addict is a victim as indicated by the provision that drug addicts can be sentenced to rehabilitation.

Article 1 number (1) Government Regulation Number 25 of 2011 concerning Compulsory Reporting of Narcotics Addicts states that compulsory reporting is self-report activities carried out by narcotics addicts who are of sufficient age or family, and/or guardian parents of narcotics addicts who are not old enough to the recipient institution must report to get treatment and/or care through medical rehabilitation and social rehabilitation.

Rehabilitation of narcotics addicts adheres to the theory of treatment because rehabilitation of narcotics addicts is a process of integrated medical activities to free addicts from dependence. This is in accordance with the punishment intended at the flow of treatment theory, namely to provide action (treatment) and improvement (rehabilitation) to the perpetrators of crime as a substitute for punishment. Criminals are people who are sick so they need treatment and rehabilitation.³³

C. Effectiveness of Law Enforcement on Narcotics Crimes in South Sulawesi

Law enforcement on Narcotics Abuse in South Sulawesi is carried out both by the police and the National Narcotics Agency of the Province of South Sulawesi. Research on Law Enforcement for the Eradication of Narcotics Crimes in the South Sulawesi Region has been carried out in 5 (five) sample areas consisting of 2 urban areas and 3 regency areas. The five regions are Gowa Regency, Makassar City, Pare-pare City, Bone Regency and Luwu Regency.

In accordance with the results obtained during the study, the number of cases in each sample region is shown in the form of a table as follows.

Table 1. Number of Narcotics Cases each year in 5 (five) Sample Areas

No.	Research Area	Number of cases in year				Total
		2014	2015	2016	2017	
1	Gowa Regency	28	44	57	107	236
2	Makassar City	216	264	464	480	1424
3	Pare-pare City	30	47	67	41	185
4	Bone Regency	36	47	60	64	207
5	Luwu Regency	10	15	39	38	102

Source: data on research results that have been processed, December 2018

Based on the data in the table above, it appears that in the levels of 2014 to 2017 the highest number of cases occurred in Makassar City with a total of 1424 cases, followed by Gowa Regency with 236 cases, Bone District with 207 cases, Parepare City 185 cases and the lowest number of cases is in Luwu District as many as 102 cases.

Based on the table above, it appears that the number of Narcotics crimes tends to increase in three sample regions, namely Gowa Regency, Makassar City and Bone District. Only in Luwu Regency tends to decline.

The number of suspected criminal acts of Narcotics abuse in each sample region is shown in the following table:

³³Barda Nawawi Arief. *RUU KUHP Baru: Sebuah Restrukturisasi/Rekonstruksi Sistem Hukum Pidana Indonesia*. Semarang: Badan Penerbit Universitas Diponegoro, 2009, pp. 23 – 24.

Table 2. Yearly Number of Suspected Narcotics Cases in 5 (five) Sample Areas

No.	Research Area	Number of Suspected in Year				Total
		2014	2015	2016	2017	
1	Gowa Regency	36	61	76	128	301
2	Makassar City	323	429	684	678	2114
3	Pare-pare City	41	78	146	62	327
4	Bone Regency	56	73	85	87	301
5	Luwu Regency	10	18	42	52	122

Source: data on research results that have been processed, December 2018

Based on the data in the table above It appears that in the period 2014 to 2017, the most suspected cases of Narcotics crimes were in the Makassar City Region, with 2114 suspects, followed by Parepare City with 327 suspects, then Gowa Regency and Bone District with a total of 301 suspects and the lowest number in the Luwu Regency Area as many as 122 people.

The number of suspects in criminal cases of Narcotics abuse that have been investigated annually is shown in the following table.

Table 3. Number of Narcotics Cases that have been investigated annually in 5 (five) Sample Areas

No.	Research Area	Number of Cases in year				Total
		2014	2015	2016	2017	
1	Gowa Regency	25	40	53	102	220
2	Makassar City	202	258	457	473	1390
3	Pare-pare City	27	42	63	40	172
4	Bone Regency	34	41	55	61	191
5	Luwu Regency	10	12	35	33	90

Source: data on research results that have been processed, December 2018

Based on the results in the table above, it appears that in the period 2014 to 2017, the highest number of cases of narcotics crimes investigated in the Makassar City Area were 1390 cases, followed by Gowa Regency as many as 220 cases, then Bone District 191 cases, District Parepare 191 cases and the lowest number of cases Luwu District 90 cases.

The level of case resolution can be determined by comparing the number of cases in each sample region with the number of cases investigated in the same year. The percentage of completion of narcotics cases in each region is shown in the following table:

Table 4. Percentage of Narcotics Case Settlement Rate in Each Sample Area from 2014 to 2017

No.	Research Area	Number of Cases in year				Total
		2014	2015	2016	2017	
1	Gowa Regency	89,29	90,91	92,98	95,33	92,13
2	Makassar City	93,52	97,73	98,49	98,54	97,07
3	Pare-pare City	90	89,36	94,03	97,56	92,74
4	Bone Regency	94,44	87,23	91,67	95,31	92,16
5	Luwu Regency	100	80	89,74	86,84	89,15

Source: data on research results that have been processed, December 2018

Based on the table above, it appears that the highest level of case resolution is in the Makassar City Region with an average value of 97.07% and the lowest in Luwu Regency with an average value of 89.15%. This shows that the efforts to resolve each case of narcotics abuse in the city of Makassar were quite good.

V. CONCLUSION

1. The essence that underlies law enforcement in Narcotics Crime is the values contained in the Pancasila as the basis of the State, especially the value of justice, certainty and Equality Before The Law against suspected Narcotics crimes. In addition, the regulation of narcotics crime still contains provisions that are overlapping between Law No. 5 of 1997 with Law No. 35 of 2009. Some provisions also have an unclear formula, especially regarding the term narcotics addict. This shows that efforts need to be made to revise or reformulate the provisions concerning criminal acts of Narcotics abuse.
2. The functions of law enforcers and the public carried out by law enforcers, National Police and National Narcotics Offices against perpetrators of Narcotics crimes, are classified into two types, namely prevention (preventive) and eradication (repressive). The two-stakeholder inter-agency has gaps in terms of arrests.

Therefore, the law enforcer in the formulation of punishment for drug traffickers must be in accordance with the spirit of the purpose of punishment, one of which is social defense with the formulation of preventing criminal acts by enforcing legal norms for public protection and resolving conflicts caused by criminal acts, restore balance and bring peace in society.

3. The effectiveness of law enforcement in an effort to eradicate narcotics crimes in South Sulawesi both carried out by the Police and the National Narcotics Agency (BNN) was revealed to be less effective, based on the results of research in 3 (three) districts and 2 (two) cities increasing from year to year. The obstacles found are the limitations of personnel, the constraints of the National Narcotics Agency, and the public not knowing the characteristics of narcotics.

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