

The Effectiveness of The Implementation of The Criminal Perpetrators of Criminal Abuse of Narcotic Drugs

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Abstract: The purpose of this study is to know and analyze the effectiveness of criminal implementation against the perpetrators of drug abuse in Class I Penitentiary Makassar, and to determine Factors affecting the effectiveness of criminal implementation of drug abuse perpetrators in Class I Makassar in reducing the number of drug addiction for citizens targeted..

Keyword: *Effectiveness, Corruption Incidents, Narcoticus Abuse*

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I. INTRODUCTION

Narcotics are substances that can affect a person's psychological condition (thoughts, feelings and behaviors) and can cause physical and psychological dependence. Drugs stands for narcotics and drugs / hazardous materials. In addition to drugs, the term is especially introduced by the Ministry of Health of the Republic of Indonesia is a drug that stands for Psychotropic Narcotics and Addictive Substance. All of these terms whether drugs or drugs refer to a group of substances that the drug health experts are actually psychotropic substances commonly used to sedate patients when they want to be operated! or drugs for certain diseases. However, the perception was misused due to the use of which has been out of bates dose. Until now the spread of drugs is almost the entire population of the world can easily get drugs from unscrupulous elements.

Health development as a part of national development is directed to achieve awareness, willingness and ability to live healthy for every citizen in order to realize optimal health degree, which is done through various health efforts, including health service to society.

Drugs (Narcotics and Drugs containing addictive / dangerous and illicit substances) have recently been very popular among teenagers and young people of Indonesia, because this drug abuse has broken into all circles, not only among naughty children and thugs but has entered the campus environment and other respected environment. Drugs are now widely encountered among teenagers and younger generations in capsules, tablets and flour like ecstasy, copio pills and shabu-shabu, even in very simple forms like cannabis leaves sold in envelopes. Currently, parents, from scholars, teachers / lecturers, officials, law enforcers and even all circles have been restless about this drug, because the young generation of the nation's future has been heavily involved in it. Narcotics abuse in Indonesia is a very worrying problem because Indonesia's current position is not only a transit area or narcotics marketing, but has become a narcotics producing area. This is evidenced by the unfolding of factories manufacturing of narcotics in large form from abroad to Indonesia. Because currently Indonesia is very strategic and not far from the golden side (Laos, Thailand, and Myanmar) and the crescent moon (Iran, Afghanistan and Pakistan) which is the largest opium producing region in the world, making Indonesia a dark narcotics traffic .

The seriousness of the government against the eradication of narcotics can be seen with various policies issued both the police and BNN. The arrests made by the police and BNN against the perpetrators of drug trafficking and death executions by the government against drug abuse convicts who recently reported briskly proof of the government's joy in fighting narcotics. The circulation of narcotics also occurs in correctional institutions which are the last bastion and scanning system. Penitentiary is a place where a prisoner. Especially drug inmates in bina well in order not to depend on or repeat acts in the case of criminal acts of narcotics abuse.

To manage the above issues, the existence of a criminal law is absolutely necessary. Criminal law as one part of the law in general does not show any differences with other laws. That is, all such laws contain a number of provisions to ensure that the norms in the law are observed by the public. This shows that basically all laws aim to create a harmony, order, legal certainty forth in social interaction. In a criminal law, however, there is a distinction from other laws in general, that is, people also recognize

copper deprivation of liberty in the form that in it the person concerns the existence of a deliberate to give a legal effect of a result of a bijzondere feed or a suffering which is of a special nature in the form of a punishment to those who have committed a pelangman or prohibitions specified therein.

The existence of special suffering in the form of a punishment is certainly inevitable in the parts of the law in general is that if people want to let the norms that are in there truly will be obeyed by people. In civil law, for example, a person knows the confiscation of a person's property to recover the loss the person has caused to the other person.

The existence of special sufferings in the form of punishments mentioned above causes the penal law to acquire a place apart from other laws, so in the opinion of scholars, the penal law should be regarded as an ultimatum remedium or as a final attempt to improve human behavior, and it is natural that one wishes that the penal code in its application be accompanied by the restrictions that are as restrictive as possible.

In addition to law enforcement the role of correctional institutions becomes very important to create good individuals and will not repeat their actions. The participation of each correctional element is crucial to the effectiveness of a criminal process, inadequate facilities, minimal training and lack of supervision will be one of the reasons for the ineffectiveness of a penitentiary process in a prison. By knowing the various dangers inflicted on the misuse of narcotics, then all kinds of abuse of illicit goods are meruapkan description of the incessant nature of this retain the criminalization of the use of narcotics. In addition, the establishment of the law is a manifestation of the consistency of Indonesia's proactive attitude in supporting the international movement in combating all forms of narcotics crime.

The purpose of criminal law to improve human behavior is sufficiently established with the current condition of Indonesia's paradigm that has been embraced by Indonesia so far must be recognized as a major factor of the occurrence of dehumanization practices against narcotics users. The steady state paradigm of the users of mannal narcotics and forming a new paradigm in society so that narcotics users are often considered trash, criminals, and various stigma that can be discriminative and dna lead to dehumanisasi in dealing with it, the government and Narcotics Institution.

The formulation of the Articles is sufficient only to be stipulated is whether in practice the field is ready to accept the determination, decision and order of the judge as mandated in the Article.

In Indonesia today, the imposition of criminal sanctions in the form of imprisonment by the judge for the perpetrators of Narcotics crime is one of the criminal policies adopted by the Narcotics Law and can not be separated and the criminal law norms adopted tfete4 criminal law, for example in Article 10 KUHPidana. Another case in other world has happened significant happening to narcotic user by performing depenalization actions against its use which is intended to replace the criminal sanction imprisonment which sometimes applied with other criminal sanction such as Community Service Order.

The lack of judges that govern rehabilitation for narcotics addicts is caused by various factors namely: First, the judge should see case by case if it will apply article 54 of the Narcotics Act. The reason, the construction of penalties for narcotics case is threatened with high criminal. For example, the Narcotics Law regulates any person without rights or against the law of planting, maintaining, possessing, storing, possessing, or providing class I drugs subject to a maximum of 10 years imprisonment. Secondly, in addition to the narcotics law. The Supreme Court (MA) issued Circular No. 1 of 2000 on Penalties for the severity and nature of the third crime, the judge's perception in deciding the narcotics case was based on the imprisonment of punishment more effective when compared to rehabilitation, in addition to the characteristics of dealers and users in Narcotics law threatened criminal sanctions. Although it has been regulated in the new legislation, but until now there has not been a concrete form in the regulation to place drug users not only as a criminal but also emphasize that the board is a victim who must also be recovered.

A. Problem Formulation.

1. How is the effectiveness of criminal implementation against narcotics abuse perpetrators in Class I Pemasarakatan Makassar?
2. What factors affect the effectiveness of criminal implementation of drug abuse perpetrators in prisons I Class Makassar in suppressing the number of Narcotics dependence for the targeted citizens?

B. Theoretical Framework

Theory of Legal Effectiveness.

Effectiveness is a state that contains an understanding of the occurrence of a desired effect or effect, if a person commits an act with a certain intention that is desired. So the person is said to be effective or cause or have the intention as desired. The Theory of Legal Effectiveness, ie, this theory explains the passage of a rule of law when applied in society. Often, we know that in society, the law that has been made is not effective in it.

In Sociology of law, law has a function as a means of social contort is the effort to realize a balanced condition in society, which aims to create a harmonious state between the stability of change in society. In

addition, the law also has other functions as a means of social engineering which means is a means of renewal in society.

Law can play a role in connecting the patterns of community thinking from traditional thought patterns to rational or modern patterns of thought. According to Lawrence Friedman elements of the legal system consists of three elements and three elements of this legal system greatly affects the effectiveness of law in the three elements of society are: legal structure, legal substance, and legal culture.

The legal structure includes the executive, legislative and judiciary as well as related institutions, as well as the prosecutor, the police, judicial commissions and others. While the substance of the law is about the norms of regulation and law. The legal culture involves the views, customs and behavior of the community on the thinking of values and respect of the prevailing legal system, in other words, the legal culture is the climate of social thought about how the law is abused, violated or implemented..

Without a legal culture the legal system itself would not be powerless like a dead fish lying in a basket, not like a living fish swimming in the sea (without legal culture, the legal system is its sea). (Lawrence Friedman, 1984: 7) every state society and community has a legal culture. There are always attitudes and views of legal culture. This does not mean that everyone in a community gives the same thoughts as others. The most notable are the culture of law and insiders, namely judges and legal counsel who work within the legal system itself, as the pressing brush forms a great deal of diversity within the legal system. At least this impression will affect law enforcement in the community.

The effectiveness of the law is a process aimed at making the law effective. The situation can be reviewed on the basis of some benchmarks of effectiveness. There are those who view the law as a regular act or behavior. The method employed is induction-empirical; so the law sees it as a repetition of the same form, which has a particular purpose to reach its depth through harmony between order and tranquility, or between discipline and freedom.(Soerjono Soekanto.:1988: 1).

According to Soerjono Soekanto that there are five factors that affect the effectiveness of law in society, the five factors are, the law itself, law enforcers, facilities and facilities, society, and culture .. The five factors on the base is often related to the closely, because it becomes the main point in upholding law, as well as the benchmark and effectiveness of law enforcement. The five factors presented by Soerjono Soekanto, no factor which is very dominant influence, all these factors must be sating support to establish the effectiveness of law. Better still if there is a systematic of these five factors, so the law can be in effective value.

The systematic means to build the effectiveness of the law must be initiated to question how the law, then on how the law enforcement, then how the facilities and fasititas that support, then the community to respond and the culture that was built.

Theory of the Criminal Justice System

In the criminal justice system, generally there is a form of approach, namely: normative, administrative, social. The normative approach sees the four law enforcement apparatus (police, prosecutors, courts, and copper corrections) as a function of the applicable legislation so that the four apparatus are an integral part of the law enforcement system solely.

The administrative approach views the four law enforcers as a management organization that has a working mechanism, both horizontal and vartical relationships in accordance with the organizational structure that is passed in the organization. The system used is the administrative system.

The social approach views the four law enforcement apparatuses as an inseparable part and social system so that the society as a whole is responsible for the success or failure of the four law enforcement apparatus in carrying out its duties the system in use is the social system.

Herbert L- Packer, in *The limit of Criminal sanction* has explained the existence of models in the conduct of criminal justice. Before it is necessary to explain in advance, that the use of such a model does not exist in reality, or in other words not something that is apparent in a system embodied in a country, but is a value system built on the basis of observation of practice criminal justice in various countries. The distinction that packers mention is in accordance with the condition, culture, structure of the United States society.

The Crime Control Model is based on the assumption that the conduct of criminal justice is merely to suppress criminals (Criminal Conduct), and and efesiaensi. In such a model that applies "Fast means" in the context of eradicating crime and apply what is referred to as " Presumption of Guilty ", the weakness in this model is often human rights violations for the sake of efficiency.

Selain itu dalam Due process model, munculnya nilai baru, adalah konsep perlindungan terhadap hak-hak asasi manusia, dan pembalasan kekuasaan pada peradilan pidana. Jadi dalam model ini proses kriminal harus dapat di kendalikan untuk mencegah penyalagunaan kekuasaan, dan sifat otoriter dalam rangka maksimum efisiensi dalam model ini diberlakukan apa yang dinamakan dengan "presumption of innocence"

According to Romli Atmasmita this model is based on the values and factors of negligence that are human, then in this case, the suspect must be brought to court that is impartial or checked after The crime

control model is based on the assumption that the implementation of criminal justice is solely for suppress criminals (Criminal conduct), and this is the main goal is public order and efficiency. In order to eradicate crime. And in the so-called "Presumption of guilty, the weakness in this model is often human rights violations for efficiency. In the Due process model, the emergence of new values, is the concept of protection of human rights, and limitation of power in criminal justice. Thus in this model pross criminal must be controlled to prevent abuse of power, and the authoritarian nature in the framework of maximum efeisiensi. In this model the so-called "presumtton of inoncence"

II. DISCUSSION

Napza is short for alcohol and other addictive substances. This drug is sometimes referred to as "DRUGS" stands for drugs and dangerous drugs. Drugs and drugs two terms that seemed to bloom in gossip people and attack our society, especially the younger generation. Narcotics is etymologically derived from the Greek language of narcotics, which means making paralysis and numbness. Basically narcotics have useful and useful in use in the field of medicine, health, and medicine and useful for research development of pharmaceutical science and farmakilogi itself. While in the English language narcotic more lead to drugs that make addiction. Drugs are substances that can cause a certain effect for those who enter the drug into the body, the influence is in the form of anesthesia, the loss of excitatory pain, spirit and hallucinations, with the emergence of this hallucination that causes the community groups, especially among teenagers want to use drugs, although not suffering anything. This is what causes the abuse of narcotics (drugs) (julianan lisaFR 2013:1,2)

or semi-synthesis. The substance causes decreased or altered consciousness, relieves the taste, reduces to relieve pain, and can cause dependence (addictive). (Law No.22 of 1997). WHO itself provides a definition of drugs as follows: "Narcotics is a substance that when incorporated into the body will affect physical function and / or psychology (except food, water, or oxygen). "Narcotics pharmacologically is opioda, over time the existence of drugs not only as a healer but it is destructive (Juliana LisaFR 2013:2).

The public is familiar with the Narcotics Terms which has now become a popular dangerous phenomenon in the midst of our society. There are also other terms that are sometimes used is Drugs (Narcotics and Hazardous Drugs) in addition there is also a term used ole MOH RI ie NAPZA is an abbreviation of Narcotics, Psychotropic, and Addictive substances Other all of the above terms refers to a group of substances that have the risk of addiction or addiction. Narcotics, and psychotropic substances that are known as drugs or drugs. However, due to the presence of Law No. 35 on New Narcotics, some arrangements regarding narcotics are merged into new legislation.

Based on the Law of the Republic of Indonesia Number 35 of 2009 on Narcotics can be seen the definition of narcotics itself namely: Article 1 point 1 Narcotics are substances or drugs derived from plants or non-plants, both synthesis and semi-synthesis. The substance causes a decrease or change of consciousness, eliminates feeling, reduces to eliminate pain, and can create addictive (addictive), which is differentiated by groups as attached in this Law.

Drug users in Indonesia tend to use marijuana and lexotan pills. Because the price is cheaper than other drugs and easy to produce and also get it, this type of drug has a reaction and process of use faster and more practical. Beyond the country is usually Drugs consumed type of heroin, morphine, cocaine, and doping. Drug types of heroin, morphine, cocaine, and so on, although it must be imported and a lot of risk, has now been widely circulated in Indonesia.

Narcotics Abuse

Ethologically, the abuse itself in its foreign language is called "abuse", which is to use its proprietary rights not in place. Can also be interpreted as misuse or "misuse", ie using something that is not in accordance with its function.

The Law of the Republic of Indonesia Number 35 Year 2009 on Narcotics does not provide a clear understanding and explanation of the term of abuse, only the term of the abuser can be seen in the Act, ie the abuser is a person who uses narcotics without rights or unlawfully.

The limitation of abuse applied, whether by the 1951 Single Convention on Narcotic Drugs Convention (1951) and the United Nations Convention on the Eradication of Illicit Narcotics and Psychotropic Trafficking. 1988 (United Nations Convention Against Illicit Traffic in Narcotic Drugs and Pshycotropic Substances 1988), is not much different from what has been described above. This is because the national legislation that is made specifically in Indonesia is related to the problem of narcotics abuse, and is a manifestation and concrete form of validation or recognition of the Government of Indonesia against the Narcotics Single Convention 1961 along with the 1972 Protocol that changed it..

In the Narcotics Act it is known that the perpetrators of criminal acts of drugs are threatened with high and severe crime with the maximum possible defendant being sentenced to death in addition to imprisonment

and fine. Considering that a narcotic crime is included in a particular type of criminal act, the criminal threat against it can be imposed cumulatively by imposing 2 (two) types of principal punishment at the same time, such as imprisonment and fine or death penalty and a fine penalty.

The regulation on narcotics crime in Law Number 35 Year 2009 regarding Narcotics are as follows:

Article 111 of Law Number 35 Year 2009 on Narcotics:

- (1) Any person who is unlawful or unlawful to plant, maintain, possess, store, control or supply Narcotics Group I in the form of crops shall be punished with imprisonment of a minimum of 4 (four) years and no later than 12 (twelve) years and a fine of at least Rp. 800.000.000,00 (eight hundred million rupiah) and at most Rp. 8,000,000,000.00 (eight billion rupiah).
- (2) In the case of the act of planting, maintaining, possessing, storing, possessing or supplying Class I Drugs in the form of plants as intended in Paragraph (1) weighing more than 1 (one) kilogram or exceeding 5 (five) tree trunks, imprisonment for life or prison sentence of at least 5 (five) years and maximum 20 (twenty) years and maximum fine as referred to in paragraph (1) plus 1/3 (one third).

Article 112 of Law Number 35 Year 2009 on Narcotics:

- (1) Any person who is unlawfully or unlawfully possesses, retains, controls or provides Narcotics Group I is not a crop, shall be subject to imprisonment of a minimum of 4 (four) years and a maximum of 12 (twelve) years and a minimum fine of Rp. 800.000.000,00 (eight hundred million rupiah) and at most Rp. 8,000,000,000.00 (eight billion rupiah).
- (2) In the case of the act of possessing, storing, possessing or supplying Class I Drugs not the crops as referred to in paragraph (1) weighing 5 (five) grams, the perpetrator shall be punished with life imprisonment or a maximum imprisonment of 5 (five) year and most 20 (twenty) years old and the maximum fine penalty referred to in paragraph (1) plus 1/3 (one third).

Article 113 of Law Number 35 Year 2009 on Narcotics

- (1) Any person who is unlawfully or unlawfully produces, imports, exports or distributes Narcotics Group I, shall be subject to imprisonment of a maximum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 1.000.000.000,00 (one billion rupiah) and at most Rp. 10,000,000,000.00 (ten billion rupiah).
- (2) In the case of the act of producing, importing, exporting or distributing Narcotics Group I as referred to in paragraph (1) in the form of a plant weighing more than 1 (one) kilogram or exceeding 5 (five) tree trunks or non- (five) grams, the perpetrator shall be subject to capital punishment, life imprisonment or a maximum imprisonment of 5 (five) years and maximum 20 (twenty) years and maximum fine as referred to in paragraph (1) plus 1/3 (one third).

Article 114 of Law Number 35 Year 2009 on Narcotics:

- (1) Any person who is unlawfully or unlawfully offering to sell, sell, buy, accept, mediate in the sale and purchase, exchange or hand over Narcotics Group I, shall be subject to life imprisonment or a maximum imprisonment of 5 (five) years and maximum of 20 (twenty) years and a fine of at least Rp. 1.000.000.000,00 (one billion rupiah) and at most Rp. 10,000,000,000.00 (ten billion rupiah).
- (2) In the case of the act of offering to sell, sell, buy, intermediate in buying and selling, exchanging, delivering or receiving Narcotics Group I as referred to in paragraph (1) in the form of plants weighing more than 1 (one) kilogram or exceeding 5 (five) grams, the perpetrator shall be subject to capital punishment, life imprisonment or a minimum imprisonment of 6 (six) years and maximum 20 (twenty) years and maximum fine as referred to in paragraph (1) plus 1/3 (one third).

Furthermore, in the criminal provisions of Article 127 of Law Number 35 Year 2009 on Narcotics stated that:

(1) Any Abuse:

- a. Narcotics Group I for myself shall be punished with imprisonment for a maximum of 4 (four) years;
 - b. Narcotics Group II for itself shall be punished with imprisonment for a maximum of 2 (two) years; and
 - c. Narcotics Group II for yourself shall be punished with imprisonment for a maximum of 1 (one) year.
- (2) In deciding cases as referred to in paragraph (1), the judge shall observe the provisions as referred to in Article 54, Article 55 and Article 103.
 - (3) In the event that the abuser as referred to in paragraph (1) can be proven or proven as a victim of Narcotics abuse, such Abuse shall undergo medical rehabilitation and social rehabilitation.

III. CONCLUSION

Based on the above discussion can be summarized as follows:

1. The criminal punishment system of Narcotics in the criminal justice system is currently oriented to the imposition of the principal penal in the form of capital punishment, imprisonment and fine. Whereas in such a criminal system, it has not been formulated in a clear and detailed manner that determines the limits of sentencing and the level of sentencing.
2. The ideal punishment system for narcotics crimes in the future criminal justice system should be integrative

to the existence of additional criminal and criminal penalties that are double track system. Criminal punishment consisting of capital punishment, imprisonment and fine and added with additional crime in the form of appropriation of property for perpetrators of crime.

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