

The Effectiveness Of Criminal Implementation On The Criminal Activities Of Marriage Drugs

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Abstract: The objectives of this research are to know and analyze the effectiveness of criminal act of drug abuse perpetrator in Correctional Institution and to know what factors influence the effectiveness of the implementation of narcotic abuse in Prison. This type of research uses the type of research Empirical Law to see the law in the position of reality (Das Sein) by looking at the law in the proper position (Das Sollen) to know the extent of legal effectiveness. This study focuses attention on the effectiveness of criminal execution on the perpetrators of criminal acts of narcotics abuse and examines the factors that affect the effectiveness of criminal implementation. And in connection in this case set the type of empirical research intended to know and analyze the form of legislation as a form of effectiveness against the implementation of criminal narcotics abuse perpetrators.

Keyword: The Effectiveness, The Criminal Activities, Marriage Drugs

Date of Submission: 16-04-2018

Date of acceptance: 04-05-2018

I. INTRODUCTION

Drugs are short for narcotics and drugs / hazardous materials. In addition to drugs, the term introduced especially by the Ministry of Health of the Republic of Indonesia is a drug which stands for Narcotic Psychotropic and Addictive Substance. All of these terms either drugs or drugs refer to a group of substances that generally have an addiction risk for its users. According to health experts, drugs are actually the usual psychotropic in use to anesthetize patients when they want to surgery or drugs for certain diseases. But now the perception is abused because of the use that has been outside the dose limit. Until now the spread of drugs is almost all the world's population can easily get drugs from irresponsible elements.

Drugs (Narcotics and drugs containing addictive / dangerous and illicit substances) have recently become very popular among teenagers and young people of Indonesia, as drug abuse has spread to all environments, 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 young people in capsules, tablets and flour like ecstasy, koplo pills and shabu-shabu, even in very simple forms such as 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 one that is very worrying because Indonesia's current position is not only as a transit area or narcotics marketing, but has become a region of narcotics producers. This is evidenced by the unfolding of factories in the form of large-scale narcotics from overseas to Indonesia. Because currently Indonesia is very strategic and not far from the triangle of gold (Laos, Thailand, and Myanmar) and the crescent moon (Iran, Afghanistan and Pakistan) which is the largest poppy producing country in the world, making Indonesia a dark traffic narcotics.

The seriousness of the government against the eradication of narcotics can be diliat with various policies issued both the police and BNN, arrests made by the police and BNN against the perpetrators of drug trafficking and execution of death by the government against the convicted narcotics abuse lately in the news is a real proof the government's seriousness in fighting narcotics.

The circulation of narcotics also occurs in the penitentiary which is the last bastion of the punishment system. Correctional institutions are places where a prisoner, especially a narcotics inmate in bina well so as not to depend on or repeat his actions in terms of criminal acts of narcotics abuse.

To manage the above issues, the existence of criminal law is necessary. Criminal law as one part of the Law in general does not indicate any difference with other laws that is that all the law contains a number of provisions to ensure that the norms in the law are obeyed by the community. This shows that basically all laws aim to create a harmony, order, legal certainty and so forth in social interaction.

In one sense, however, the penal law indicates a distinction from other laws in general, that is, persons also recognize the deprivation of liberty in the form that in it one recognizes the existence of a deliberate or gives a legal effect of a *bijzonderereleed* or a special suffering in the form of a punishment to those who have committed an offense or prohibitions specified therein.

The existence of special suffering in the form of a punishment is certainly inevitable in the general parts of the law, that is, if one desires that the norms contained therein will be truly obeyed by the person. In civil law for example, people recognize the institution of confiscation of a person's property to recover the loss that has been caused by the person's actions to others.

The existence of specific 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 a *remedium ultimum* or as an attempt that should be used as a last resort to improve human behavior, and it is natural that one wishes that the penal code in its application should be accompanied by the restrictions that are as restrictive as possible.

In addition to law enforcement, the role of prisons becomes very important to create good individuals and will not repeat their actions. The participation of each element of society determines 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 criminal prosecution process in the prison.

By knowing the various dangers that are caused on the abuse of narcotics, then all kinds of forms of abuse of illicit goods is also regulated in Law Number 35 Year 2009 About Narcotics. The establishment of the Act is an incessant picture of the State maintaining the criminalization of narcotics users. 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 proxy is symbolized by the issuance of Law No. 7 of 1997 on Ratification of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (United Nations Convention on the Eradication of Illicit Illicit Narcotics and Psychotropics, 1988) Law No. 8 of 1976 on the Ratification of the Single Convention of *Nrkotika* 1961 along with the 1972 Protocol that changed it.

The purpose of criminal law to improve human behavior is quite collided with the current condition of Indonesia. The paradigm that has been embraced by Indonesia so far must be recognized as a major factor of the dehumanization practices against narcotics users. The steady state paradigm of narcotics users is contagious and forms a new paradigm in society so that narcotics users are often considered rubbish, criminals, and various stigma that can be said to be discriminatory and lead to dehumanization. In dealing with it, the government in formulating the narcotics law has included rehabilitation in formulating the law. It can be seen in Article 54 of Law no. 35 of 2009 on Narcotics stating "Narcotics addicts and victims of Narcotics abuse must undergo medical rehabilitation and social rehabilitation. In addition, either medical rehabilitation can be obtained in certain hospitals and rehabilitation institutions appointed by the minister of Article 56 of Law No. 35 of 2009 on Narcotics, social rehabilitation that can be obtained in government agencies and the community Article 58 of Law no. 35 Year 2009 About Narcotics. In this case the meaning of government agencies such as Narcotics Institution.

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

In Indonesia at the time of II, 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 in the Narcotics Law and can not be separated from the criminal law norms embraced by criminal law so far, for example Article 10 of the Criminal Code . Another thing in other parts of the world there is a significant development of drug users by performing depenalization actions against users who aims to replace criminal sanctions imprisonment that sometimes applied with other criminal sanctions such as social service (Community Service Order).

The lack of a judge's verdict ordering rehabilitation for narcotics addicts is caused by various factors namely; first, the judge should look on case by case if it will apply Article 54 of Narcotics Law. The reason, the construction of penalties for narcotics cases is threatened by high criminal. For example, the Narcotics Law regulates any person who without rights or against the law to plant, preserve, possess, store, control, or supply narcotics class I shall be punished with imprisonment for a maximum period of 20 years. While for class II and III threatened with imprisonment maximum 10 years. Secondly, in addition to the Narcotics Law, the Supreme Court (MA) issued Circular Letter Number 1 Year 2000 regarding the criminalization in accordance with the weight and nature of the crime. Third, the judge's perception in deciding the Narcotics case is based on the

imprisonment of punishment more effective when compared with rehabilitation, besides the characteristics of dealer and user in Narcotics Law is threatened by criminal sanction.

Although it has been set 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 user is a victim who must also be recovered. In addition to those described above, the science of law in general and its practice often creates problems concerning the existence of the rule of law, and the effectiveness of the law. This means that the effectiveness of the law will be highlighted from the desired goal.

II. FORMULATION OF THE PROBLEM

Based on the description of the background of the above problem then formulated the problem as the scope of the discussion in this study; How is the effectiveness of criminal act of drug abuse perpetrator in Correctional Institution and what factors influence the effectiveness of criminal act of drug abuse perpetrator in Lembaga Penasyrakatan?

III. THEORETICAL FRAMEWORK

1. Theory of Law Enforcement 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 if it arises or has the intention as desired. The theory of legal effectiveness, namely this theory explains the passage of a rule of law when applied in society, the law has been made is not effective in it. In the sociology of law, law has a function as a means of social control 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. Laws can play a role in relating the patterns of community thinking from traditional thought patterns to rational or modern thought patterns. According to Lawrence Friedman (legal system of social science perspective, 2011, Bandung Nusa Media), 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 the unsure:

- a. Legal structure (legal structure)
- b. The substance of the law (legal substance)
- c. Legal culture

The legal structure includes the exclusive, legislative, and judicial and related institutions, as well as the attorney, police, judicial commissions and others. While the substance of the law is about the norms of regulation and law.

The legal culture includes the views, habits and behavior of the community on the thoughts of the values and expectations of the prevailing legal system, in other words, the legal culture is the climate of social thinking about how the law is applied, violated or implemented. Without a legal culture, the legal system itself will not be as empowered as a dead fish lying in a basket, not like a live fish that swims in its sea (without legal culture, the legal system is it sea). (Lawrence Friedmand, 1984: 7) every society, State and community have a legal culture. There are always attitudes and views of legal culture. This does not mean that everyone in a community gives the same idea. Many of the legal sub-cultures of the tribes that exist, religion, rich, poor, criminals and police have cultures that differ from each other. Most striking is the inner legal culture of judges and lawyers working within the legal system itself, because their attitudes shape diversity in 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 an attitude of regular conduct or behavior. The method employed is empirical induction so that the law sees it as a repetitious act in the same form, which has a specific purpose of achieving peace through harmony between order and tranquility, or between discipline and freedom. (Soejono Soekamto, Legal Effectiveness and Role of Sanctions, 1988: 1).

2. Theory of the Criminal Justice System

In the criminal justice system, generally known there is a form of approach, namely: normative, administrative, social. The normative approach views the four law enforcement apparatus (police, prosecutors, courts, and prisons) as the implementing institutions of the applicable legislation so that these four apparatuses are an integral part of the law enforcement system solely.

The administrative approach views the four law enforcers as one of the management organizations that have working mechanisms, both horizontally and vertically in accordance with the organizational structure prevailing within the organization, the system used is the administrative system. The social approach sees the four law enforcement apparatus as an integral part of the social system so that society as a whole is partly

responsible for the success or failure of the four law enforcement apparatus in performing their duties. The system in use is a social system.

Furthermore, Herbert L. Packer, in *The Limit of Criminal sanction* has explained the existence of two models in the conduct of criminal justice. It should be noted earlier that the use of such a model does not exist in reality, or in other words, not something that is manifestly apparent in a system embodied in a State, but is a value system built upon observation of judicial practice criminal in various countries. The distinction that packers mention is in accordance with the condition, culture, structure of the United States society.

3. Crime Control Mode

The Crime Control Model is based on the notion that criminal justice providers are solely for suppressing criminals (Criminal Conduct), and this is the primary objective of the criminal justice process. Because in this case the priority is public order (Public Order) and efficiency. In such a model the "Quick Means" applies in the context of combating crime. And in the so-called "Presumption Of Guilty", the weakness in this model is often human rights violations for efficiency.

4. Due Process Model

In the Due Process Model, the emergence of new values, is the concept of protection of human rights, and the limitation of power in criminal justice. So in this model the criminal process must be in control to prevent abuse of power, and authoritarian nature in the framework of maximum efficiency. In this model the so-called "Presumption Of Innocence" applies.

According to Romli Atmasasmita this model on the ground by the values:

1. The existence of negligence factors that are human in nature, then in this case, the suspect must be brought before a court that is not impartial or checked after the suspect obtained the full thing to propose his defense.
2. Prevention (preventive measure) and remove as far as possible the fault of court administration mechanism.
3. Individuals as a whole and the main in the judicial process and the concept of limitation of formal authority are very concerned about the combination of stigma and loss of independence which is considered to be a revocation of one's human rights which can be done by the State.
4. This model upholds the doctrine: (a) a person is found guilty if the determination is done procedural and done by those who have the duty, (b) contained the principle of "presumption of innocence"
5. Equality before the law "
6. More concerned with the decency and usefulness of criminal sanctions.

5.Theory of Objection

Alf ross points out that "Concept of Punishment" is based on two conditions:

- a. *The penalty is imposed on the imposition of suffering on the person concerned (punishment is aimed at an awfuling suffering upon the person upon whom it is imposed).*
- b. *Criminal is a statement of prevention of the act of the perpetrator (the punishment is an expression of isapproval of the action for wich it is imposed).*

Before discussing the purpose of the crime itself, we first look at the elements or criminal characteristics as stated by Muladi and Barda Nawawi Arief as follows:

- a. *The penalty is essentially an imposition of suffering for sorrow or other unpleasant consequences*
- b. *The punishment is intentionally granted by a person or entity which has power (by the authorities)*
- c. *The penalty is imposed on a person who has committed a criminal act according to the law*

Based on the above description, M. Sholehuddin expressed the nature of the criminal elements based on the purpose of punishment, namely:

- a. *Humanity, in the sense that the punishment upholds one's dignity and dignity.*
- b. *Edukatif, in the sense that the punishment is able to make people fully aware of the actions done and cause him to have a positive and constructive attitude of the soul for the business of crime prevention.*
- c. *Justice, in the sense that the punishment is perceived as fair (both by the convict and by the victim of crime).*

The same is true of Roscoe Pound, a philosopher of law who argued that in the late nineteenth century there grew a new way of thinking, where law scholars no longer spoke of the will of the individual, but began to think in terms of human needs in society , and the purpose of law in relation to social objectives. Here begins to grow what the law aims or functions as Law as a tool of social engineering, arguing that the law has shifted, not just law as a tool to maintain order in society, but as a tool that can help the process of changing society.

From the above statement, the criminal law is influenced by the view of Roscove Pound, which ultimately leads to the flow of modern criminal law, namely the purpose of criminal law to protect individuals and at the same time society against crime and criminals must be accompanied by the determination of non-classical penalty purposes with criminal not only eyes in revenge.

Here are the theories that have been formulated by experts to explain in detail about the punishment and the purpose of the imposition of criminal punishment. In general, penitential theories according to Satohid Kartanegara (Criminal Law section I, Hall Student Lectors: 67), divided into 3 major groups, namely.

6. Legal Effectiveness

When we want to know the extent of the effectiveness of the law, we must first be able to measure, to what extent the law is obeyed or not obeyed. Of course, if the rule of law is obeyed by most of the targets that are subjected to obedience, we will say that the rule of law is effective. Nevertheless, even if it is said that the rules that are obeyed are effective, but we still can still question it further degrees of effectiveness. Someone obey or not a rule of law, depending on his interests. And there are various, among which are the nature of compliance, identification, internalization, and many other interests. If the adherence of most citizens to a general rule is only due to its compliance or only the fear of sanction, then the degree of obedience is very low, because it requires continuous supervision. Different if the obedience is based on the importance of internalization, namely obedience because the rule of law really matches the intrinsic values adopted, then the degree of obedience is higher (Achmad Ali, 2009: 375).

Understanding the effectiveness of law according to Hans Kelsen, when talking about the effectiveness of the law, discussed also about the validity of the law. The validity of the law means that the legal norms are binding, that one must act in accordance with those required by legal norms, that one should abide by and apply the legal norms. The effectiveness of the law means that people really do, that the legal norms as they should do, that the norms are actually implemented and obeyed.

The effectiveness of law enforcement requires physical strength to enforce these legal norms into reality based on legitimate authority. Sanctions are the actualization of the norms of law and creations, ie a threat will not gain legitimacy if there is no rule to obey or obey.

The effectiveness of law enforcement is closely related to the effectiveness of the law, in order for the law to be effective. It is necessary law enforcement agencies to enforce these sanctions. A sanction can be actualized to the community in the form of compliance, with the condition indicating an indicator that the law is effective.

In negative sanctions, what matters is the certainty. The importance of certainty, among others, megakibatkan that supervision of the implementation of these provisions must be done strictly. A threat is really effective or not to prevent the occurrence of a crime, depending also on the human perception of the risk he suffered in violation of a certain norm. The main problem is how to raise the assumption that if someone violates the provisions will be the risk of severe punishment threat. In addition, the speed of enforcement of punishment with certainty and severity of punishment has a greater effect on the effectiveness of the law.

One type of criminal sanction as set out in Article 10 of the Criminal Code is imprisonment. This criminal type is the most common criminal offense in all criminal / criminal cases.

The effectiveness of Prison Crimes, according to Barda Nawawi Arief (2002: 224), the effectiveness of imprisonment can be observed from two main aspects of the purpose of crime, namely the aspect of community protection covering the purpose of preventing, reducing or controlling the crime and restoring the balance of society, among others, resolving conflicts, bringing a sense of security, / damage, remove the stains, reinforce the values that live in society. While the definition of improvement of the perpetrator includes various objectives, among others, to rehabilitate and socialize the perpetrator back and protect him from ill-treatment outside the law.

. The Effectiveness of Prison Criminal Seen From the Aspect of Community Protection . Viewed from the aspect of protection / interest of the community then a criminal is said to be effective if the criminal as far as possible can prevent or reduce crime. Thus, the criterion of effectiveness is seen from how far the frequency of crime can be suppressed. In other words, the criterion lies in how far the prevention effect of the criminal prison in preventing the common citizen from not committing a crime. 2. The Effectiveness of Prison Criminal Seen From The Aspect of Repairing the Perpetrator, Judging from the improvement of the actors, the measure of effectiveness lies in the special prevention and criminal aspects. Thus, its size lies in the question of how far the criminal (prison) has an influence on the convicted offender. Based on the methodological problems mentioned above it can be stated, that studies have not been able to prove for sure whether the prison sentence is effective or not. Moreover the problem of criminal effectiveness is actually related to many factors (Barda Nawawi Arief, 2002: 225, 229, 230).

IV. DISCUSSION

Etymologically, the abuse itself in a foreign language is called "abuse" that is to use its proprietary rights rather than its place. Can also be interpreted as misuse or "misuse" that is 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 abusers can be seen in the Act that the abuser is a person who uses narcotics without rights or unlawfully.

The restrictions on the abuses applied by the 1961 United Nations Single Convention on Narcotic Drugs and the United Nations on the Eradication of illicit trafficking of narcotics and psychotropics (1988) do not apply to the United Nations Convention on the Eradication of Narcotic Drugs and Psychotropic Substance (1988) much different from what is described above. This is because the national legislation made specifically in Indonesia related to the problem of narcotics abuse is a manifestation and concrete form of validation or recognition of the Indonesian government against the Single Convention Narcotics 1961 along with the 1972 Protocol that changed it.

The effectiveness of the criminal implementation of the perpetrators of the criminal acts of narcotics abuse and to examine the factors that affect the effectiveness of criminal implementation. And in connection in this case set the type of empirical research intended to know and analyze the form of legislation as a form of effectiveness against the implementation of criminal narcotics abuse perpetrators.

Drug and drug users in Indonesia tend to use marijuana and extotan pills. Because the price is cheaper than other drugs and easy to produce is also easy to get it, this type of drug has a reaction and the process of its use faster and more practical. Outside the country is usually in the consumption of drugs such as heroin, morphine, cocaine, and doping. Drug types of heroin, cocaine, morphine, and so although must be imported and many risks, now many are also circulating in Indonesia.

Napza is an abbreviation of psychotropic drugs and other addictive substances. This drug is sometimes referred to as "NARCOBA" which stands for narcotics and dangerous drugs. Drugs and drugs two terms that are now rife gossiped and attacked our society, especially the younger generation. Narcotics is etymologically derived from the Greek language that is Narkoum which means making paralysis or making numbness. Basically narcotics have properties and useful use in the field of medicine, health, and medicine and useful for research development, pharmaceutical science or pharmacology itself. Whereas in English Narcotic more leads to drugs that make users addicted. Drugs are substances that can cause a certain effect for those who use denhan how to put the drug into the body, the influence is in the form of refraction, loss of excitatory pain, spirit and hallucinations. With the onset of this hallucinatory effect that causes community groups especially among adolescents want to use drugs despite not suffering anything. This is what resulted in the misuse of narcotics (Juliana Lisa F. R: 1, 2).

Narcotics are substances or drugs derived from plants or non-plants, either synthesis or semi-synthetic. It causes a decrease or change of consciousness, relieving feeling, reducing to pain relief, and can lead to addictive dependence (Law No. 22 of 1997). WHO itself provides a definition of drugs as follows Narcotics is a substance that when inserted into the body will affect physical function and or psychology (except food, water, or oxygen). Narcotics pharmacologically is opioids, over time the existence of drugs not only as a healer but rather destructive.

The public is familiar with the term drug that has now become a dangerous phenomenon that is popular in our society. There are also other terms that are sometimes used Drugs (Narcotics and dangerous drugs). In addition, the term used by the Ministry of Health RI is a drug abbreviation of Narcotics, Psychotropic and Addictive Substance. All of the above terms refer to a group of substances that are at risk of addiction or addiction. Narcotics and Psychotropic is what is commonly known as Drugs or Drugs. However, due to the presence of Law Number 35 Year on New Narcotics, some arrangements on psychotropic substances are merged into the new legislation.

V. CONCLUSION

The implementation of criminal offenders of drug abuse in Makassar has not been implemented effectively as expected and which is ordered in law 2 Factors affecting the implementation of criminal offenders of drug abuse in Makassar City are the factors of legal substance, legal structure, legal facilities and infrastructures as well as knowledge will affect the number of drug addiction numbers for the community.

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IOSR Journal Of Humanities And Social Science (IOSR-JHSS) is UGC approved Journal with
Sl. No. 5070, Journal no. 49323.

Aan Priyatna "The Effectiveness Of Criminal Implementation On The Criminal Activities Of
Marriage Drugs." IOSR Journal Of Humanities And Social Science (IOSR-JHSS). vol. 23 no.
05, 2018, pp. 01-07