

## LAW ENFORCEMENT OF CRIMINAL ACTORS OF NARCOTICS TRAFFICKING BY BNN OF NORTH SUMATERA

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### ABSTRACT

*The circulation of narcotics is one of the problems that should get more attention in Indonesia, especially in the city of Medan. This study uses the juridical-normative method in explaining research questions. In reinforcing arguments and explanations, researchers used primary data through direct interviews with the North Sumatra National Narcotics Agency (BNN) and secondary through scientific writings, news and official government publications. This paper explains that the government must be able to enforce the law related to the crime of narcotics trafficking, this is due to the large impact that can arise from the destruction of Indonesia's young generation.*

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## 1. INTRODUCTION

Medan is the third largest city in Indonesia, located in the Province of North Sumatra (SUMUT). Based on a report by the National Narcotics Agency (BNN), the region has the largest number of narcotics abuse in Indonesia. <sup>1</sup>This assessment can be seen through the large number of arrests in narcotics trafficking cases by the BNN and the Indonesian National Police. The National Narcotics Agency (BNN) is an institution that is domiciled under and responsible to the President in coordination with the Chief of the Indonesian National Police. The National Narcotics Agency carries out the task

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<sup>1</sup> CNN, Indonesia. (2020). Salip Jakarta, Sumut Peringkat Satu Penyalahgunaan Narkotika. Available online from: <https://www.cnnindonesia.com/nasional/20200629151615-12-518678/salip-jakarta-sumut-peringkat-satu-penyalahgunaan-narkotika>. [Accessed July 10, 2020]

of preventing and eradicating the circulation of Narcotics and cooperating with the Indonesian National Police, as well as making efforts to rehabilitate drug addicts through certain social institutions.<sup>2</sup>

The perpetrator of the illicit trafficking of narcotics in this paper refers to a person who is a narcotics abuser. Narcotics abusers based on Act no. 35 of 2009 are people who use narcotics without rights or against the law. Meanwhile, the definition of narcotics according to WHO (World Health Organization) is a substance which when put into the body will affect physical and psychological functions (except food, water, or oxygen).<sup>3</sup> On the other hand, narcotics are also used as a treatment and development of science, but misuse will have dependency effects and negative impacts on oneself and the environment.<sup>4</sup>

There are several attempts at how narcotics can enter the city of Medan (SUMUT). One of the efforts that are often made by narcotics traffickers is to directly send the goods from other areas, and other efforts are by way of transit from Malaysia by air and sea routes. The demographic closeness between Indonesia (SUMUT) and Malaysia has encouraged the circulation of narcotics between the two countries using the sea route, then the goods are sold directly in North Sumatra.<sup>5</sup> The more widespread cases of narcotics abuse in Indonesia, the Anti-Narcotics Law began to be revised. The latest amendment by the Indonesian government stipulates Act No. 35 of 2009 concerning Narcotics. The law includes penalties, laws related to psychotropic substances that previously existed in a different article, and accommodates the National Narcotics Agency (BNN).

## **2. METHOD**

The type of research used in this journal is normative juridical. This research examines scientific writings, laws and regulations relating to the discussion and collection of data taken directly from the National Narcotics Agency (BNN) of North Sumatra Province. The purpose of this study seeks to explain the role of the National Narcotics Agency in law enforcement and how BNN's efforts to prevent and eradicate narcotics crime. This research uses descriptive analysis method. Through descriptive analysis, it will describe law enforcement in North Sumatra, analyze the regulations related to this research, and analyze the results of interviews conducted by researchers to find answers in this study. The data used in this study are primary data and secondary data. Primary data was obtained directly by interviewing the North Sumatra National Narcotics Agency, while secondary data was obtained from Act Number 35 of 2009 concerning Narcotics, Criminal Procedure Code, books related to law, articles / journals, and official government publications.

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<sup>2</sup> Badan Narkotika Nasional (BNN). (2017). Badan Narkotika Nasional. Indonesia.co.id. Available online from: <https://www.indonesia.go.id/kementerian-lembaga/badan-narkotika-nasional>. [Accessed Mar 17, 2020]

<sup>3</sup> Sutrisna, Negah and Lisa, Julianan. (2013). Narkoba Psikotropika Dan Gangguan Jiwa. Yogyakarta: Nusa Medika. p.1-5.

<sup>4</sup> Tim Redaksi Nuansa Aulia. (2010). Narkotika dan Psikotropika. Bandung: Nuansa Aulia. p.1-4

<sup>5</sup> Hasiholan Mangasitua Siboro, Results of Interview with deputy of investigation, Badan Narkotika Nasional (BNN) North Sumatra, 05 April 2020

### **3. RESULT AND DISCUSSION**

#### **3.1. Law Enforcement Against Illicit Narcotics By BNN in North Sumatra Province**

The North Sumatra National Narcotics Agency (BNN) is an agency mandated by Article 65 of Law no. 35 of 2009 concerning Narcotics, the article explains that BNN has a representative body in the province and is domiciled in each provincial capital. Thus, the BNN SUMUT is a BNN that works within the scope of the province which has functions, duties, roles, and authorities that have been determined by law. The task of the National Narcotics Agency as a law enforcer in narcotics crime is mandated as an authorized body in investigations and investigations as stipulated in Act No. 35 of 2009 concerning Narcotics and Presidential Regulation No. 23 of 2010 concerning the National Narcotics Agency,

In implementing law, apart from public awareness regarding the applicable law, law enforcement officers have a very important role in carrying out law enforcement. Law enforcement will be carried out properly if the legal apparatus works in accordance with established procedures. However, in practice law enforcement often does not implement a legal provision that should be <sup>6</sup>. Narcotics crime is one of the extraordinary crimes. Extraordinary crime is a crime that has a large and multi-dimensional impact on society, law, culture, economy and politics <sup>7</sup>. In overcoming these problems, extraordinary punishment is needed for extraordinary types of crimes. Narcotics has even become a transnational crime, this can be seen through the circulation that occurs across national borders. <sup>8</sup>

The National Narcotics Agency (BNN) North Sumatra (SUMUT) stated that it had exposed and overcome various kinds of drug crimes. During 2015, the BNN SUMUT had 50,178 suspects arrested with a total of 40,253 cases. The narcotics category confiscated in 2015 consisted of 23.2 tonnes of marijuana, 1,072,328 ecstasy, 2.3 tonnes of methamphetamine, while for the types of heroin and cocaine the numbers were relatively small. BNN SUMUT has shown the age of drug addicts from the age of 10 years to 59 years and there are 350,000 people who have committed the crime of trafficking narcotics, when viewed through a case by district, there are around 10,000 people who do it.<sup>9</sup>

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<sup>6</sup> Sayonto. (2008). " Penegakkan Hukum Di Indonesia. Jurnal Dinamika Hukum, Faculty Of Law, Universitas Jendral Soedirman" 8 (3): 2-6

<sup>7</sup> Hatta, Muhammad, Ph.D. (2019). *Kejahatan Luar Biasa Extra Ordinary Crime*. Lhokseumawe: Unimal Press. p.20-23

<sup>8</sup> Sudanto Anton, (2010). " Penerapan Hukum Pidana di Indonesia ". Adil Jurnal Hukum, 7 (1), 2-3.

<sup>9</sup> Gorby,Fatah Baginda. (2017). *Sumut Darurat Narkoba! Mengerikan Data Peredaran Narkoba Di Sumut Versi BNN*. Tribun-Medan.com. Available from: <http://medan.tribunnews.com/2017/12/21/sumut-darurat-narkoba-mengerikan-data-peredaran-narkoba-di-sumut-versi-bnn> . [Accessed Jan 1, 2019]

**Table 1.** Global Piracy: Actual and Attempted Piracy Attack in Different Regions, 2007-2016.<sup>10</sup>

Year	Drug Case	Suspected Drug Case	Patient Of Abuse	Anti-Drug Activator	Information
2015	2443	3098	5	-	-
2016	883	1359	156	1800	-
2017	1012	1448	8872	11454	6230
2018	1052	1567	7513	15504	38625
2019	817	1263	6768	10152	2699878

Source: P4GN statistics from 2015 – 2019

In enforcing the narcotics crime, the National Narcotics Agency cannot only focus on arresting the abusers. However, law enforcement officers must target narcotics traffickers and precursors, even certain individuals who assist the distribution of drugs from international syndicates. On the other hand, BNN must also be able to take effective countermeasures for drug users or addicts through social rehabilitation. This is in accordance with the Supreme Court Circular (SEMA) Number 7 of 2009 concerning Placing Drug Users in Therapeutic and Rehabilitation Institutions.<sup>11</sup> The death penalty is the harshest sentence imposed by narcotics traffickers. Apart from the penalties imposed on the dealers, the authorities also confiscated their property.

Drug abuse and traffickers have differences, so they cannot be treated equally between the two. This difference also places the abuse and drug dealers as having different ways of dealing with it. The determination of a narcotics abuse person as a victim or perpetrator can be seen through Article 127 of Number Act 35 of 2009 concerning Narcotics. On the other hand, narcotics users initially get guaranteed rehabilitation due to misuse of these items, however, the legality principle in effect demands that narcotics abusers must also receive criminal threats. This is regulated in article 127 of Act Number 35 of 2009 concerning Narcotics. If understood as a whole, if a drug user is considered an act or perpetrator of a crime, then the question is who is the victim of a crime committed by the drug user. Several writings have explained that the victims of the narcotics problem are themselves (crime without victims), or what are called self-victimizing victims, namely those who become victims due to crimes they have committed themselves.<sup>12</sup>

### 3.2. Efforts to Prevent and Eradicate Illicit Narcotics in Medan City

#### 3.2.1 Prevention

The policies carried out by the North Sumatra National Narcotics Agency are specifically mandated through Act No. 35 of 2009 concerning narcotics, namely in Article 64 to Article 72. In particular, it can be seen in Article 67 paragraph (2) which states that the deputy as referred to in paragraph (1) is in charge of prevention, eradication, rehabilitation, law and cooperation. and community empowerment. Apart

<sup>10</sup> Quoted from the Badan Narkotika Nasional of North Sumatra, [dated 05/04/2019]

<sup>11</sup> Wenda Hartanto. (2017) Penegakan Hukum Terhadap Narkorika Dan Obat-obatan Terlarang Dalam Era Perdagangan Bebas Internasional Yang Berdampak Pada Keamanan Dan Kedaulatan Negara. Journal Legislasi Indonesia., 14 (1): 5-7

<sup>12</sup> Dr. Iskandar, Anang. S.IK, SH, MH. (2018). Penegakan Hukum Narkotika. Bekasi: Elex Media Komputindo, p 20-25

from applying RI Act No. 35 of 2009 concerning Narcotics, the North Sumatra National Narcotics Agency also strengthens the rule of law in the field of prevention by implementing coordination, integration and synchronization with relevant government agencies in eradicating and terminating the organized crime network of abuse and illicit trafficking of narcotics, psychotropic substances, precursors, and addictive substances. for tobacco and alcohol.<sup>13</sup>

In the context of efforts to prevent and eradicate the abuse and illicit trafficking of narcotics in North Sumatra, North Sumatra's BNN has made a strategy using Advocacy and Information Dissemination. This strategy involves various groups, namely government, private sector, and the social environment. According to Irma, who is part of the eradication and community empowerment (BNN), the efforts that have been made by the government are the formulation of anti-drug-minded development policies, advocacy outreach activities and drug-stop campaigns, and training for P4GN volunteers (Eradication of Abuse and Prevention of Illicit Narcotics Circulation) for create a healthy and clean environment from drug abuse.<sup>14</sup>

On the other hand, the role played by the private sector is namely administering drug testing to all employees. In this case, the BNN will facilitate the implementation of drug testing and is responsible for the assessment process and rehabilitation efforts for employees who are positive for drug consumption.

Furthermore, the National Narcotics Agency and the private sector are also committed to continuing to disseminate the dangers of drug abuse, socialization of mandatory reporting programs, and rehabilitation services for addicts and victims of drug abuse.

Act of the Republic of Indonesia No.35 of 2009 on Narcotics, Article 104 explains that the community also has a role in narcotics problems, namely that people have the widest opportunity to participate in helping to prevent and eradicate the abuse and illicit trafficking of Narcotics and Narcotics precursors. Through cooperation with various levels of society, it is hoped that the roles of various parties will increase in the P4GN efforts in North Sumatra. This cooperation can also be a basis for the two parties involved to continue developing P4GN's efforts through various sectors of cooperation in the future.<sup>15</sup>

One of the programs carried out by BNN is also in social environments such as school environments, namely the avocation mediation program. The program seeks to provide information and explain about the current conditions of drug abuse and trafficking, the dangers of drug abuse and the implementation of various drug abuse prevention efforts<sup>16</sup>. On the other hand, the North Sumatra National Narcotics Agency

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<sup>13</sup> Badan Narkotika Nasional (BNN).n/a. Deputi Bidang Pemberantasan. Badan Narkotika Nasional Republik Indonesia. Available online from: <https://bnn.go.id/satuan-kerja/berantas/>. [Accessed Jul 30, 2020]

<sup>14</sup> Irma, Results of Interview with deputy of prevention and community empowerment, Badan Narkotika Nasional (BNN) Nort Sumatera, 05 April 2020

<sup>15</sup> Barus.Herry. (2015). BNN Gandeng Prusahaan Swasta Berantas Narkoba. Investor Daily. Available online from: <https://investor.id/archive/bnn-gandeng-prusahaan-swasta-berantas-narkoba>. [Accessed May 14, 2019]

<sup>16</sup> BNN. (2012). Pedoman Perencanaan Dan pengganraan Responder Gender Dalam Bidang Pencegahan Dan Pemberantasan Penyalahguna Dan Peredaran Gelap Narkotika (P4GN). Jakarta. p. 70-72



is also active in providing counseling through various media, both print and electronic media.<sup>17</sup>

### **3.2.2 Eradication**

In an effort to eradicate narcotics abuse, the North Sumatra BNN has made several efforts such as destroying cannabis fields, thwarting and confiscating the smuggling of methamphetamine that has entered the North Sumatra region, conducting coordination meetings (coordination meetings) with areas of origin for smuggling such as Aceh, investigating narcotics networks, and conducting a shining operation involving the role of Customs and Police in uncovering drug trafficking. In revealing cases of narcotics smuggling that have various modus operandi, coordination between government agencies is deemed necessary in eradicating narcotics abuse. Baharuddin Lopa explained that smuggling is a word used in the practice of importing, sending, or delivering goods that are not in accordance with applicable procedures or regulations / laws.<sup>18</sup> Coordination between these institutions is called a shine operation, and has uncovered 18 cases with 78.1 kg of narcotics as evidence.<sup>19</sup>

On the other hand, in eradicating cannabis narcotics, the National Narcotics Agency is actively conducting operations and investigations into marijuana fields in certain areas. Some eradication of narcotics is also carried out by conducting raids on houses or places that are suspected of being places for storing and distributing narcotics. In March 2020, the North Sumatra National Narcotics Agency (BNN) has succeeded in arresting the circulation of methamphetamine narcotics originating from Malaysia. 32 Kg of crystal methamphetamine was captured when the perpetrator crossed Jl. Trans Sumatra, Tanah Datar, Asahan, North Sumatra. The authorities have named 5 suspects and secured 2 other people as ordering the goods. In this case the suspect is threatened with a narcotics crime, including: Article 114 paragraph 2 of Act no. 35 of 2009; Jo Article 132 paragraph 1; Jo 112 paragraph 2 Jo Article 132 paragraph 1 Law no. 35 of 2009 on Narcotics. As a result of his actions, the suspect was caught up in the maximum threat of death penalty or life imprisonment.<sup>20</sup>

In September 2016 the North Sumatra BNN also succeeded in eradicating the circulation of cannabis narcotics, this can be seen through the Medan High Court which issued a decision No: 350 / PID.SUS / 2017 / PT-MND has named a suspect in the distribution of narcotics class 1 in plant form, namely type of dry marijuana weighing 35 kg net. The act of the suspect caught in Article 114 paragraph (2) of the Act. No. 35 of 2009 on narcotics. The suspect is subject to life imprisonment for his actions.<sup>21</sup>

Thus, law enforcement officials must put more effort into preventive measures, this is so that the public has a better understanding of the dangers of narcotics. However, taking preventive measures against narcotics requires the roles of various layers of society, not only by the government. The community must be able to assist

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<sup>17</sup> Irma, Results of Interview with deputy of prevention and community empowerment, Badan Narkotika Nasional (BNN) Nort Sumatera , 05 April 2020

<sup>18</sup> Lopa, B. (2002). Tindak Pidana Ekonomi. PT. Jakarta: Pratnya Paramita. p.25-29

<sup>19</sup> Badan Narkotika Nasional (BNN).n/a. Deputi Bidang Pemberantasan. Badan Narkotika Nasional Republik Indonesia. Available online from: <https://bnn.go.id/satuan-kerja/berantas/>. [Accessed Jul 30, 2020]

<sup>20</sup> Humas BNN. (2020). Corona Tak Lumpuhkan Bandar, BNN sita 32 Kg Sabu Asal Malaysia. Availble online from: <https://bnn.go.id/corona-tak-lumpuhkan-bandarbnn-sita-32-kg-sabu/>

<sup>21</sup> Direktori Putusan Mahkamah Agung Republik Indonesia Nomor:350/PID.SUS/2017/PT-MDN

law enforcers in preventive measures such as reporting on the trafficking of narcotics in the community. This cooperation is expected to minimize the distribution and abuse of narcotics in Medan City, North Sumatra

#### 4. CONCLUSION

In an effort to prevent, eradicate abuse and illicit trafficking of narcotics in the city of Medan, the National Narcotics Agency (BNN) has made a strategy by means of "Advocacy and Information Dissemination". This strategy involves all parties, both government, private and the social environment. The efforts to eradicate and empower the community by the National Narcotics Agency are carried out by formulating policies with an anti-drug perspective, advocacy outreach activities and drug-stop campaigns. It is hoped that P4GN volunteer training can create a healthy and clean environment from drug abuse.

In practice, law enforcement for the circulation of narcotics in North Sumatra has not been able to fully address the circulation of narcotics, this is because North Sumatra is in the first position of narcotics distribution in Indonesia. Through the police law enforcement apparatus and the North Sumatra National Narcotics Agency, laws governing narcotics issues have been drafted and enforced, however, crimes related to narcotics cannot be mitigated. Several cases of narcotics trafficking have been handled by North Sumatra law enforcement officials, several dealers have been arrested and some have even been sentenced to death. However, other dealers continued to appear and expand the area of operation.

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