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**LAW ENFORCEMENT IN THE ERADICATION OF CRIMINAL ACTS OF
NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES
IN SOUTH SULAWESI, INDONESIA**

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ABSTRACT

The Purposed of this research is to analysis the legal enforcement in solve the drugs and Psychotropic in South Sulawesi. The problem analysis is how the basic value based in the legal enforcement in narcotic and psychotropic ceiminal imposed, included the role of the legal officers and society in the implementation level.

The location of this research is in the South Sulawesi Provinces. This reearch is using socio-legal approach with 5 regions as sample, they are Makassar, Sidrap, Maros, Gowa and Bulukumba. This research is analysis descriptive and explained the analysis problem in systematic.

The result of research has shown that legal value in solve the narcotic and psychotropic crime as value as mentioned in Pancasila, especially the justice, certaintylaw and qual legal treament to every one. The regulation has given the authority to BNN to arrest with the exceed of period of time under the proceeding of criminal Act and against the priciple of justice and certain law also the legal treatment to each of suspected. The role of legal officers in order to solve the narcotic and psychoropic crime divided into two, such as preventive and repressive eradication efforts are realized to investigate and prosecute drug crimes, including by developing appropriate methods and fast in its efforts to control and eradicate narcotics offenses. This effort may involve the participations of the community to seek and provide informations to an alleged criminal act has occurred narcotics and precursors. In the implementation, the law enforcement in order to solve the narcotic and psychotropic crime is still un effective. According to collected data in 5 (five) regions as sample of it, have shown that the increase of narcotic and psychotropic abused.

Keywords:Legal Enforcement, Narcotic, Psychotropic,Criminal, Drugs.

1. INTRODUCTION

Background

The essential of legal enforcement is contain a supreme of substantial value, like justice, Justice value is expected to be the same with Pancasila as a philosophy for Indonesia people. The contained values inside of Pancasila is a value that should be keep, in balance, harmony and aligenment between the individual interest and society interest. The justice value is the most important value in each of regulation, law while in other words, the characteristic of law is not just a hregulation but contain justice as well.

Law enforcemen (Satjipto Raharjo, 2009:12) closed related to the legal system and purposed of law. Legal system is consist of subntence of the law, structure of law and culture of law (lawrence M.friedman, 1997). Legal system is always force to achieve the purpose of law, such of the certain of law, benefit of law and justice. While (in Ahmad Ali, 2011:68) taugh that we should use the priority principle first like justice, benefit and last is certainly. The law enforcement is headling by the legal system to create the purpose of law, when it posited in balance between the formal law enforcement is seem to run into the substantial law enforcement that rying to achieve the benefit and legal justice.

The law enforcement in the context of legal state (Bagir Manan,2006;4) have 3 (three) main pillars, such as : (1) legality of all law enforcement officer including society; (2) the guarentee of recognized, the protection, respect, and the enforcement of the human rights (3) implementation of fire trial, fire, and impartial (as inpartial the court). Imbalance between those 3 (three) pillars of law enforcement caused of discrimination and arbitrariness whice is due to the distruction of living thing in the state law.

Legal enforcement to the crime abused of narcotic and psychotropic is one of the efforts to prevent the abused act that caused of damage to people. Basically, the rotating of narcotic and psychotropic in Indonesia if viewed from the legal aspect is legal, due to the law of narcotic and law psychotropic is only prohibit the used of it without permission as mentioned by the law. In the empirical level, the use of the narcotic and psychotropic is often abused not for scientist and knowledge purposes. It will be effect to the destruction of young generation whom are abused and get addicted to it. The law of narcotic and psychotropic has issued but the crime of it is still exist. In the last cases have found the owner and seller that have arrested and get heavy sanction but still the circulation of it are huge and seem to wider spread. (O.C. Kaligis & Associates. 2002;260).

Law enforcement of the crime in Indonesia, specially under criminal imposed should be force to the legal norms approach that empowerment character in prison. It is expect to train the perpetrators about the bad impact of it. However, in fact, the criminal act is still imposed the perpetrators as general sanction. Which is the crime only stop while arrest but keep arise in the social living.

Criminal law enforcement, have 3 (three) big basic problems that interesting to study and then recommend as the input of evaluative correction for the law enforcement officer in order to solve the narcotic and psychotropic crime. Those three problems mentioned such as : (1) to teach the basic value of law enforcement to solve the narcotic and psychotropic crime. (2) regulatory models of narcotic and psychotropic crimes in regulation of Indonesia, and (3) the law enforcement in solving the narcotic and psychotropic crimes through the criminal justice system.

Those three basic problem is related to two field of studies, such as (1) on field of criminal Law study, and (2) in the field of penal policy. On Criminal law study focused on study to the substance of criminal law, procedural of criminal law and the Execution of criminal law which positive law (*ius constitutum*). Those three fields in solving the cases of narcotic crimes, the execution and judge decision.

2. METHOD OF RESEARCH

Location

The location is south Sulawesi, with divide into 23 regency/town. The consideration is south Sulawesi is one of province in Indonesia with the level quality narcotic crimes that high enough outside the Java island. From the 23 area, selected 5 of those as of samples. They are, Makassar, Sidrap, Maros, Goa, and Bulukumba. Sample of location determined with the consideration that have a highest level of abuse it.

Type of research

The research is a analysis descriptive which is the research that trying to find out and analysis the solve of narcotic and psychotropic crime in deep analysis as due to the role of the law enforcement officers and society in order to solve the crime as well. The normative analysis is by analysis the regulation of relevant law and seeing the implementation in the field. The result of it will clear and systematic describing.

According to those mentioned above, so this research is as "socio legal research". With normative and empirical research, which is law by analyzing the regulation in abstracted and in concrete.

Population and Samples

The population in this research is all parties that able to be a source of respondents, statement and opinion to the based value, regulation model and implementation the law enforcement in drugs abused crimes. Sample of it, is part of population that determined based on purposive technique sampling.

According to the purposive technique, then the sample of this research are (1)The institution of Nasional Narcotic and Psychotropic, (2)The investigator from the police, (3)Public Prosecutor, (4)Judge, (5)Prisoners of drugs officers, (6)hospital center of the drugs addicted, (7)Religion Scholars, (8)The perpetrators of Narcotic and Psychotropic

3. COLLECTION DATA

Primary data purposed to get a data of respond, statement, and opinion to the basic value, the regulations model and implementation of Law enforcement to narcotic and psycotropic crimes to the 5 (five) sample areas by direct interview. Interview did by using guide quistionnaire, such as (1) opened quistionnaire (2) closed quistionnaire (3) filter questionnaire.

4. METHOD OF ANALYSIS DATA

Secondary data and Primarydata collected, analysis by stepsof (1) editing, (2) Coding, (3) reduct, (4) analysis-description. Editing means to re check yhe complete of data after noted and recorded. Coding means to classified data according to problems of research with purposed to make it easier in analyzing and description data. Reduct means to selected data which one is direct and un direct with the problem analysis.

Procedure of description is by using data to analysis trough describing data as it need, connected to the doctrine, theory, norms that have been positive including the policy issued related to the Law enforcement of this matter. The procedure of data analysis by descriptive qualitative analysis.

5. THE RESULT OF RESEARCH

Number of college student whorm had abused of narcotic from 2009 to September 2012 is fluctuated. Moreover the user is lower compare to the students in high, junior and elementary school. It have shown that the number of students of School are vulnerable in getting abused of narcotic and psychotropic crimes. According to data from DIT narcotic of Police area in South Sulawesi, The Number of narcotic and psychotropic abused have shown under this table below

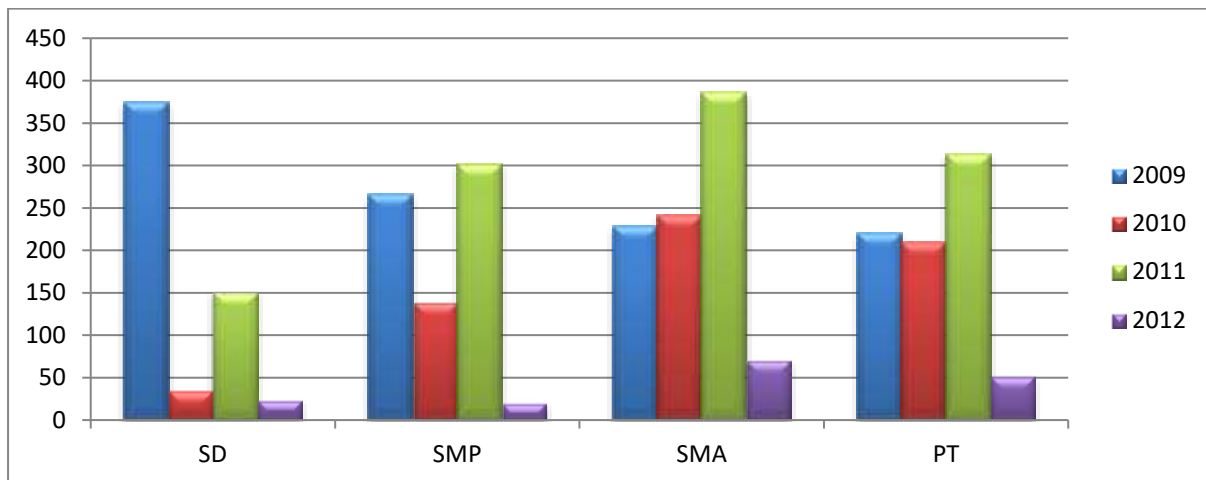
Table 1. The number of Narcotic and Psychotropic abused in Student and college students from 2009 to september 2012.

No	Level of education	Years				Amount
		2009	2010	2011	2012	
1	Elementary	357	266	229	220	1090
2	Junior	35	139	241	209	624
3	Senior	151	301	386	313	1151
4	College	23	20	70	52	165

Source : DIT Narkoba Polda Sulsel, year 2012

According to table mentioned above, it seemed the most abuser is from Senior high School students with total amount number to 1151 users, then the elementary students with total amount number of 1090 users, and lowest is user from college students with total amount number of 165 users.

If is show by the chart then level of abusers in students and college student as like as the following :



Picture 1

According to Chart above, it seemed that the abuser is continue to increase on level junior and senior high school students. The number of drug users is a bit worrying, because beside the number is high also there is a consistent increase from year to year. While for elementary students level even it seemed to decrease but still the number of users are still high even more higher than college students.

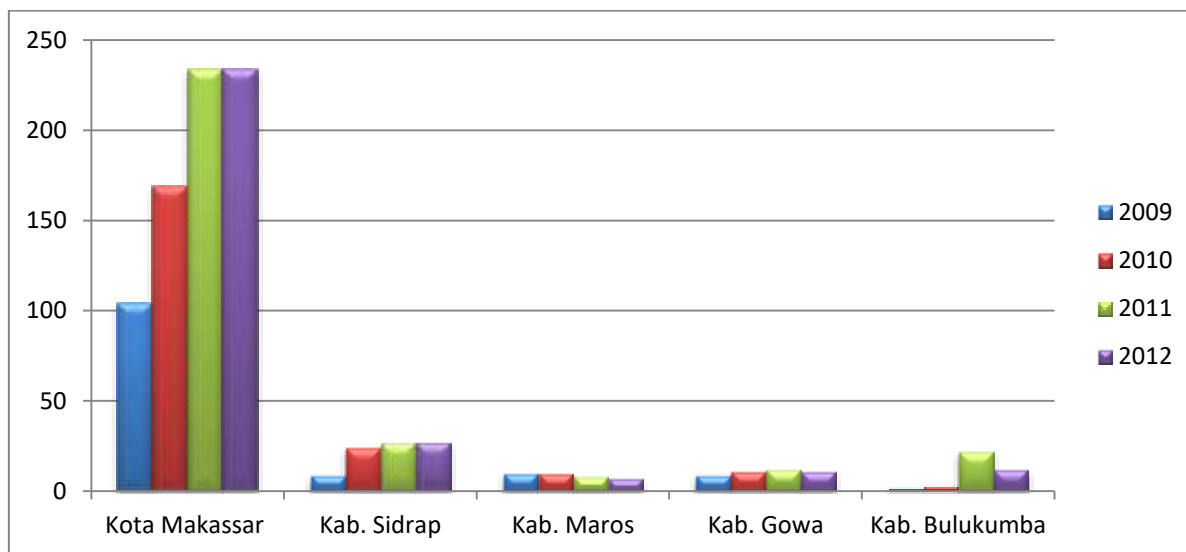
Research about of narcotic and psychotropic abused in South Sulawesi by choosing 5 (five) sample areas as mentioned before. So here the data collected from each areas for some cases, like in the following :

Table : The Number of Narcotic and Psychotropic every year 5 (five) areas of sample

No	Location	Number of suspect each year				Total
		2009	2010	2011	2012	
1	Makassar	104	169	234	234	741
2	Sidrap	9	24	27	27	87
3	Maros	10	10	8	7	35
4	Gowa	9	11	12	11	43
5	Bulukumba	2	3	22	12	39

Sumber : Data analysis until September 2012

Accoding to table mentioned above, it seemed that the number of users in drugs have increased in 4 (four) areas, such as in Makassar, Sidrap, Gowa dan Bulukumba. Only Maros, the number of drugs crime is seemed to decrease. As if shown in the chart, the comparison to each case on each areas as like as the following :



Picture 2

The Comparison number of cases within those sample Areas from 2009 until September 2012

According to the diagram chart above, it seemed that in makassar, from 2009 sampai until september 2012, the number of drugs cases have increased every year. In Sidrap although the number of cases is higher than Maros, Gowa, and Bulukumba, but the number of cases is lower then Makassar, Makassar. Also it is not increase every year.

The number of suspects on drugs abused crimes in each of samples areas, as shown on the coming table.

Table 3. The Number of drugs abused suspecth every year in 5 (five) sample areas

No	Location	Number of suspect each year				Total
		2009	2010	2011	2012	
1	Makassar	153	233	326	284	996
2	Sidrap	21	39	42	36	138
3	Maros	14	17	8	7	46
4	Gowa	19	18	14	14	65
5	Bulukumba	3	6	30	13	52

Sumber : Have been analysis until September 2012

According to data on table above, it seemed on around 2009 until September 2012, the suspected of drugs abused crimes is more in Makassar with amount number of 996 people, then Sidrap with total amount number of 138 people, then Gowa as many as 65 people, followed by bulukumba with amount number to 52 people, and the lowest is Maros with total number amount of 46 people.

6. DISCUSSION

The essential of law enforcement is to the effort of legal norms enforcement, whether is characteristic order and characteristic prohibition. The purpose of law enforcement to the drugs abused crimes is to increase the health and the human resources lof indonesia.

The values is should be based in order to get law enforcement in solving the drugs crimes is the values from Pancasila, especially the justice value, certainty law also equal legal treatment to all people as mentioned under article 27 point (1) of Constitution Republic Indonesia 1945, However, the regulation of narcotica that have



given the authority to BNN to arrest in exceed period of the time on proceeding penal law is against with the justice principle and certainty law as mentioned under article 3 law no. 35 year 2009 of Narkotica, also the equal treatment to everyone.

One of the authority of the investigator of BNN is arrested and Invesigate the suspect among 3 x 24 hour counted since the letter of arrested received by the investigator and able to extend to other 3 x 24 hour. It is one of the distinguish authority between BNN and other legal officers like police. The differentiate of authority is caused the dufferent treatment to the suspect on drugs abuse crimes. The susped of drugs abused crime is only can be arrested by the police within 1 day, while the susped that arrested by BNN can be arrested until 6 days.

Diffrent treatment between the suspect that arrested by BNN and police will caused the un justice and un certainty law. So in order to create the justice, certain law and equal treatment to each of suspect of drugs crime, it is necessary to give a same basic within BNN dan police in solving or enforced the law. It is can be done by establish the separate regulation that offer the same authority both to police dan BNN, or revise the law of narcotic specially related to the authority for those (two) institution.

Accoring to article 4 Law no. 35 year 2009 og Narcotic, it could be understand that policy telated to the drugs crime is not ga along the purposed of regulation made like : (a) Guarantee the providing of Narcotic of medical service and / or for development of science and technology use ; (b) prevent, protect and save the indonesian people from the narcotic abused ; (c) to eradication the dark rotating of narcotic and precursor of narcotic and ; (d) guarantee the the regulation to the medical rehabilitation and social for the drugs abuser. In order to create all mentioned, all the defined of regulation under the narcotic law should be focusing on abused and circulation of narcotic.

On the investigating level, the institution have authority ti handle the drug abused crime is Police and BNN. As mentioned under articel 81 law no. 35 year 2009 of narcotic both BNN and Police, have authority to conduct investigate or inquiry to the case of drugs abuse crimes. But there is a differentiate authority like in arrest that need to revised in order to prevent the un justice trial in society also not cause another problem in the future. Apart from that, law No.35 year 2009 of narcotic is not make a clear separate about the type of narcotic case that could be handle by BNN, with the type of narcotic case is under the authority of Police, so it was overlapping authority between those 2 (two) institution.

In addition to the huge authority of BNN as a tool of State that function to enforce the law supreme and to solve the narcotic crimes, so it is necessary to establish an institution or monitoring external institution for the protection, secure feeling and the fulfillment of justice for indonesia citizen. The authority to do the under cover buying and controlled delivery will involve in the provent procedure due to all parties that sell buy must be metion in court.

The low pf trust from public to the seizure and destruction of evidence goodnees is become another problems. The law of narcotic have tried to make an innovation regulation for the seizure and destruction to do is faster than following the procedure under the penal law. For that, it should be done in transparency both to the suspect and public.

Apart of giving the huge to the law enforcer, especially to BNN, the law number 35 year 2009 also offer the right and responsibility to society to involve actively in order to prevent abused and eradication the narcotic. The role pf public to prevent and eradication the drug abused and dark circulation also precursor can be establish in in one instution that coordinate by BNN. However the right and responsbility of society as mentioned above, actually is an obligation. It can be seen trough article 131 law number 35 year 2009 of narcotic.

It is show that people actually forced to deliver a report due the sanction when it is ignored. While in other hand, generally understood, it is an obligation to enforce the law, to prevent the crimes including the drugs abuse crimes. Is not only for the perpetrator but also for the legal enforcer is self.

The words of "Everyone" under the article 131 Law Number 35 year 2009 have covered widely so this article could be threaten a person who is event only assist the user. As name as the word of " Everyone without right against the Law " under the narcotic law doesn't ignored intention part part and could be detainee people who

actually have no intention to do the drugs abuse whether by force on in known. The used of words as mentioned in article 111 point (1), article 112 point (1), article 113 point (1), article 114 point (1), and some of other article. Come into practice, article 131 about the narcotic should be used when arrest persons whom sre together with the drug users. Although they don't directly as drugs or as rotator. It could be understood that the regulation as mentioned under chapter XIII about the role of societyspecially under article 131. Report is the right that means may be done but also may not. Those authority fully depend to the people mentioned. When seeing article 105 and other articles stated not reported is against the Law and could be imposed sanction.

If report about the drugs abused crime understand as a right as mentioned trough article 105 pasal 106 Law number 35 year 2009, then can be expalin that it article 131 is against with the peinciple of “ there is no penal imposed without guilty “ According to the theory of Retribution in distribution, with the arguing that the penal imposed should not be imposed to un guilty person. The principle of no penal imposed without guilty must be respecting even in has excitation on “*strict liability*” .

Beside to force the society to take a role in prevent and eradication the dark circulation of narcotic and prosecutor, the Law number 35 year 2009 is have threaten the penal imposed for the parents whom intent to not report their children whom are users to get a rehabilitation. As mentioned under article 55 point (1) and article 128 point (1) the Law of Narcotic. Even though the element of “intent for not report” must be proven fisrt, but it is not exclude parent who are do not know about the contain substance that consumed by their children is narcotic. It is difficult for parent due to the not understand of parent about the type of that drugs. Also the parent seem to protect their children. This condition and situation is most happen to society and a afraid to connect with the legal officers. In other hand, article 128 point (3) has given the addicted of drugs whom have meet their age to have medical rehabilitation 2 (two) time under cpntrol of doctor in hospital or rehabilitation institution that pointed by the government for not sentenced. This is open whole have been used by the certain parties who used to connect with government of legal officer. So this regulation have potentially cause the un justice feeling in society. Article 128 point (3) is also whole that able to use by certain party to abuse the narcotic and precursor.

Apart from that, article 128 and article 134 Law number 35 year 2009, also force the addicted user to report to the authority due for un reported will sentenced the sanction. So those article have potentially to force people as guilty in crimes. It is against with the criminal law principle of *non self incrimination*. The regulation is obliged the user and parent to report are violation to the principle of *non self incriminstion*, the right not to put own self into the criminal act and prohibite state or government to force person in giving witness that able to make their selves into one case of crimes both now and later.

In the implementation level of the law enforcement to the drugs abused crimes, refer to the collected data from 5 sample areas, known that around 2009 to September 2012, a number of cases of drugs crime that have been highest investigated is in Makassar as much as 697 cases then following by Sidrap around 74 cases then, Gowa as much as 40 cases, followed by Bulukumba as much 31 cases. The highest solving of cases in Gowa with approximately around 93,37 and lowest in Bulukumba with amount approximately as 72,54. However, the number of narcotic drugs cases in those two regions are still lower than in Makassar.

7. CONCLUSION

The values are should be based on the law enforcement in order to solve the drugs crime which is values from Pancasila, specially the justice value, certainty law also equal treatment to all the suspected. It is shown that necessary to revised or defined back the regulation about the drugs abused crimes. The effort of law enforcement done by the law officers like Police and BNN to the drugs abuse crimes. Can be classified into two types : preventive. The sharing of duty and authority is not clear yet so caused the overlapping of authority. Apart from that, it can be caused the un justice feeling to the societ. Specially to the suspect of the drugs abused crimes. The implementation of law enforcement is not fully effective. According to colled data in 4 (four) regions and 1 (one) city as research of samples have shown that the increase of drugs abuse. While the obstacle that faced of the law enforcers due to limed personnel and un known of the society with the elements caused by the narcotic

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