

System of Universal People's Defense and Security: Concept to Fight on Drugs Crime in Indonesia

Yusuf Saefudin¹, Hartiwingsih², Isharyanto³

¹ Doctoral Student of Law Faculty Universitas Sebelas Maret, Surakarta – Indonesia

^{2,3} Universitas Sebelas Maret, Surakarta – Indonesia

Abstract- The misuse and the illicit trafficking of drug in Indonesia are more and more apprehensive. The number of imported narcotics contraband is increasing. Based on the data from United Nation Office on Drugs and Crime (UNODC), Indonesia is the target of narcotics smuggling especially for the kind of shabu. Narcotics can be abused as the tool for demolishing certain states. In long term, those states will be collapse since their young generation consumes narcotics. Universal defense strategy is an effort to press the number of misuse and illicit trafficking of narcotics. In its implementation, concept of System of Universal People's Defense and Security (Sishanta) involves all components of the nation. National Narcotics Board (BNN) as a leading sector has a role as the coordinator in fighting against narcotics. Indonesian Army/ Indonesian National Police (TNI/ POLRI) support law enforcement and eradicate the illicit trafficking of narcotics either through land, sea, or air tracks. On the other hand, society should be more actively involved in preventing and eradicating narcotics; moreover, they should be more sensitive and braver to report to the authorized party if they see, hear, and find the misuse and the illicit trafficking of narcotics.

Keywords- *Sishanta, Drugs Crime, Fight on Drugs, Universal People's Defense*

I. INTRODUCTION

Narcotics are essentially substances that are used to benefit of health care and development of health science. The users of these narcotics should be under the control of doctor because of their side effects that can make people addicted [1]. Misuse and illicit trafficking of narcotics keep increasing along with the increasing number of narcotics addicts and abusers. The misuse of narcotics in Indonesia now becomes more worrisome problem. Early in his leadership era, the President, Joko Widodo, stated that Indonesia is in crisis because of Narcotics and he called all citizens for fighting against all forms of narcotics crime [2].

The growth of Narcotics expansion around the world in 2014 was known that the estimated number of Narcotics users in 2012 was between 162 million to 324 million people or about 3.5% - 7% [3]. Meanwhile, based on the results of BNN research in collaboration with Health Research Center of Universitas Indonesia in 2015 regarding the National Survey of Prevalence of Narcotics Misuse in Household Groups, it is known that the prevalence of Narcotics abusers in Indonesia has reached 2.20% or 4,098,029 people that ever use Narcotics in the last year (current users) [2].

Based on the classification of Narcotics cases in 2015, there was an increasing trend in Narcotics cases as a whole, the highest increase is the Narcotics cases with the increasing percentage 23.58% of 23,134 cases in 2014 become 28,588 cases in 2015. Whilst, based on the classification of Narcotics suspects in 2015, there was also an increasing trend of narcotics suspects as a whole, the highest number of Narcotics suspects in Narcotics cases is 38,152 people. It is escalating around 7.98% if it is compared to the year 2014 [2].

An increasing number of cases of misuse and illicit trafficking of narcotics makes this narcotics crime known as extraordinary crime. Related to this case, "Extraordinary crime must be treated with an extraordinary way. The increase of narcotics illicit trafficking number is directly proportional to the number of narcotics addicts and narcotics abusers increased. Therefore, it needs massive and comprehensive handling. The pattern of narcotics crime case handling is continuously developing. Through National Narcotics Board, government intensified efforts to prevent, combat, and rehabilitation" [4].

Misuse of Narcotics is closely linked to illicit trafficking as part of the international crime scene. The illegal trade mafia supplies Narcotics in order to make people become drug dependence so that the supply is increasing. The relationship between the narcotics dealer and the victim makes the victim difficult to escape from the narcotics dealer, even the victims are often involved in illicit trafficking due to the increasing need and their dependence on Narcotics [5].

The development of science these days is followed by technology enhancement causing positive and negative effects. Because of technological sophistication, negative effects happen particularly in form of Narcotics modification and science is used against the law to avoid legal bondage [5].

National Narcotics Board (BNN) and Indonesian Army (TNI) already had Memorandum of Understanding (MoU) in order to Prevent and Eradicate the Misuse and Illicit Trafficking of Narcotics also the Implementation of Rehabilitation for Narcotics Addicts, Narcotics Abusers, and Narcotics Precursors. Then, at that time the MoU was being signed by the Chief of BNN who is Police Commissioner General Dr. Anang Iskandar, S.H., M.H. and Commander General of TNI who is Dr. Moeldoko.

Indeed, in the agreement there is no particular section that places the Narcotics dealers as the enemy of the state. Yet, it can be renewed in accordance with the current needs and circumstances in which Narcotics threaten the future of this nation.

Following up the Memorandum of Understanding in the efforts of prevention and eradication of Narcotics that have been arranged, exactly there must be specific strategy applied in the efforts of prevention and eradication of Narcotics in Indonesia. Moreover, the concept places Narcotics dealers as the enemy of the state. It is necessary to examine thoroughly how dangerous the Narcotics threat for Indonesia is and how much the strength of the Indonesian to fight the misuse and illicit trafficking of Narcotics in Indonesia is, as well as several possibilities that will happen in the future.

Based on Article 1 section 3 Law Number 3 Year 2002 regarding State Defense, it is mentioned that the State Defense System is a Universal People's Defense that involves all citizens, regions and other national resources, and it is prepared in advance by the government and it is implemented thoroughly, integratedly, directedly, continuously, and sustainably to uphold state sovereignty, maintain territorial integrity of the Republic of Indonesia, and protect the safety of all nations from any threat. Therefore, if we look at the consequences of misuse and illicit trafficking of Narcotics, there are 12,044 people die each year [6].

According to the description above, the concept *Sishanta* on fight drugs crime needs to be studied and developed further regarding what and how the possibilities that occur from its implementation in the efforts of prevention and eradication of Narcotics in Indonesia are. This paper intends to further discuss the concept of *Sishanta* and examine the opportunities and the challenges of the concept of *Sishanta* in order to keep the sovereignty of the Republic of Indonesia from any form of threat, including the threat of a narcotics war proxy.

II. RESEARCH METHOD

The research method used in this study is normative juridical. This study uses a statute approach, conceptual approach and historical approach. The specification of this research is descriptive research. The data used in the form of secondary data with the main material in the form of primary legal materials (legislation) and secondary legal materials in the form of literature textbooks and scientific journals regarding narcotics crime. The data obtained were analyzed using qualitative analysis

III. FINDINGS AND DISCUSSION

1. *Sishanta: Indonesian Defense System*

According to Article 1 section 1 Law of State Defense, State Defense is all efforts to defend the state sovereignty, the integrity of The Unitary State of the

Republic of Indonesia, and the safety of all people from any threat and interference. It is based on Indonesian people's philosophy and life vision to guarantee and keep the integrity and the standing of The Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution. In addition, it is one of national government functions to actualize the state defense unity for achieving the national purposes, which are to protect all the people of Indonesia and all the independence and the land that has been struggled for, to improve public welfare, to educate the life of the people, and to participate toward the establishment of a world order based on freedom, perpetual peace, and social justice.

Joko Widodo (Jokowi), the President of Indonesia, signed Government Regulation Number 97 of 2015 on General Policy of State Defense Year 2015-2019. It was signed on August 21st, 2015 [7]. According to Article 3 of that regulation, The General Policy of State Defense is the base for Minister of Defense in stipulating the policy of state defense enforcement; and for the ministry or institution, it also becomes the foundation in stipulating policy in accordance with the duty, the function, and their own authority related to the field of defense.

According to Article 1 section 2 Law of State Defense, State Defense System is a Universal People's Defense involving the whole citizens, regions, and other national resources, also it is early prepared by the government and it is implemented totally, integratedly, directedly, and continuously in order to uphold the state sovereignty, the integrity of the regions, and the safety of people from any threat. State defense is conducted by building and developing the defensive ability of state and nation, also overcoming each threat.

Universal People's Defense (*Sishanta*) is a defense system combining military and non-military defenses which means that it involves the role of citizens, regions, and other national resources and also the national infrastructure early prepared by the government and it is implemented totally, integratedly, directedly, and continuously. Therefore, the citizens, related to their role in State Defense implementation, have the right and the duty to contribute in defending state as the representation of nationality life which guarantees citizens' rights to get equal, fair, safe, peaceful, and prosperous life. All components of nation must be actively involved in the Universal People's Defense without any exception.

State is the most important subject among the other subjects of international law. According to Article 1 of Montevideo Convention on December 27th, 1933 concerning state's right and duty, as the subject of international law, state must have four elements namely permanent population, certain territories, sovereign government, and capacity to build relationship with other countries [8].

A state can be born and exist, but it does not mean that the state has the sovereignty. Sovereignty is the state's highest authority to conduct any activities independently based on its needs as long as it does not contradict to the international law. According to international law concept, sovereignty has three main aspects below.

- (1) External aspect of sovereignty is a right for every state to independently determine its relationship with other countries or groups without any pressure or control from other countries.
- (2) Internal aspect of sovereignty is an exclusive right or authority of a state to determine its institutions' form and working procedure, and right to stipulate law and create some proceedings to obey.
- (3) Territorial aspect of sovereignty is state's full and exclusive power upon individuals and things existing on its territory [9].

State's sovereignty of its land territory is something fundamental as one of state's requirements. State's sovereignty is highly required so that other countries cannot enter the state's territory arbitrarily. A state called as sovereign state because sovereignty is an intrinsic characteristic of a state. If a state is considered as sovereign state, it means that the state has the highest authority and does not admit any higher unit than its authority. In other words, the state monopolizes the authority. It does not allow any society or national organization to create their own activities which can give any disadvantage to the state. On the other hand, the highest authority has limitation. The space of this highest authority is limited by the state's territories. It signifies that the state has the highest authority only in the border of its territories [10].

2. *Sishanta as the Efforts of Prevention and Eradication of Narcotics*

The current situation of Narcotics trafficking in the world and in Indonesia leads all components of nation to treat it seriously. Narcotics are serious threat for Indonesia. It is not impossible that this nation will be ruined by narcotics if it is not treated seriously. Even due to narcotics, it is very possible that Indonesia will experience loss generation as it has been explained before. Because of this very serious threat, all components of nation must realize that problem. It is impossible if this threat is solved by National Narcotics Board and Police only. Other institutions including Indonesian Army and society must work together in the effort of fighting against Narcotics. We have to remember that narcotic is an extraordinary crime which needs extraordinary support from all parties in handling it.

It is known that there is national strategy in preventing and eradicating Narcotics, which is Presidential Instruction Number 12 of 2011 on The Implementation of Policy and National Strategy of Prevention and Eradication, Misuse and Illicit Trafficking of Narcotics Year 2011-2015. However, the regulation in a formal

sense is no longer valid in 2016. To solve that problem, it needs the real, clear, well-directed and strong law-based action. By the invalid period of Presidential Instruction Number 12 of 2011, the new regulation is required in preventing and eradicating the misuse and the illegal trafficking of narcotics.

Considering these serious situation and threat, in this paper, the writers propose *Sishanta* Strategy as the effort in fighting the misuse and the illegal trafficking of narcotics. This concept is adopted from the concept of *Sishanta* in Law of State Defense. All components of nation have the roles to fight it. There are three components in that concept which are main component, backup component, and supporting component.

Sishanta concept in fighting against the misuse and the eradication of narcotics involves all components of nation either main component, backup component, or supporting component. The strategy of prevention and eradication of narcotics must be arranged carefully by considering the latest condition and development based on the *Sishanta* concept implemented by Indonesia. It is very important in order to prevent and eradicate narcotics misuse completely, effectively, and well integratedly among components (main, backup, and supporting components).

The Roles of National Narcotics Board

Sishanta as stated in Article 7 section 3 Law of State Defense, is a state defense system placing the government institutions outside from defense field as the main element in facing non-military threats, in accordance with the kind and the characteristic of threats which is also supported by other components of nation's power.

National Narcotics Board has authorities in preventing and eradicating narcotics in Indonesia. Article 64 Law Number 35 of 2009 on Narcotics mentions that:

- (1) In order to prevent and eradicate misuse, illicit trafficking, and precursors of narcotics, by this law, National Narcotics Board is formed and it is called BNN (Badan Narkotika Nasional).
- (2) BNN as stated in section 1 is a non-ministry government institution in which its position under the President and it is also responsible to the President.

Referring to the article above, it is clear that National Narcotics Board is non-ministry government institution that specifically handles the prevention and the eradication of narcotics abuse, illicit trafficking, and narcotics precursors in Indonesia.

If BNN's legitimacy is correlated to *Sishanta*, its position is in the main component and as the main formation of *Sishanta*. BNN is the controller in fighting against the misuse and the illicit trafficking of Narcotics. All data and information about the misuse and the

trafficking of Narcotics fully become BNN's responsibility.

Previously Indonesia already had national strategy in preventing and eradicating Narcotics, it is stated in Presidential Instruction Number 12 of 2011 on The Implementation of Policy and National Strategy of Prevention and Eradication of Narcotics Misuse and Illicit Trafficking Year 2011-2015 (Presidential Instruction P4GN 2011-2015). Moreover, the sixth instruction in that presidential instruction is BNN exclusively conducts monitoring and controlling the implementation of Jaktranas P4GN in 2011-2015 and compiles report to the President. If we see the time limit of that Presidential Instruction, juridically it has already expired or passed the time limit that is determined by the policy maker. Therefore, it needs to state new policy to do the prevention and the eradication of Narcotics in Indonesia.

Presidential Instruction (P4GN 2011-2015) could be said "unsuccessful" in preventing and eradicating the misuse and the illicit trafficking of narcotics. It is because of the high rate of narcotics misuse and illicit trafficking, also the less contribution of society. Hence, it needs to apply new strategy which is more effective to prevent and eradicate Narcotics in Indonesia. The commitment of "fighting against Narcotics" is appropriate to be applied in *Sishanta* in order to prevent and eradicate Narcotics in Indonesia, with BNN as the main component in implementing the *Sishanta*.

The Roles of Indonesian Army (TNI) and Indonesia National Police (POLRI)

As mentioned before in Law of State Defense, the main component in *Sishanta* is Indonesian Army whose duty is to keep the safety and the sovereignty of state if there is any military threat. According to Article 5 Law Number 34 of 2004 on Indonesian Army (TNI), TNI have role as state's instrument in defense sector and they have to consider state's policy and political decision in performing their duties.

Narcotics are considered as the effective weapon to destroy certain countries without using mortars, planes, and tanks. Even there is news in media which claims that there is big agenda behind the entry of tons of shabu and millions of ecstasy pills to Indonesia. This problem must be treated seriously by our nation. We cannot be tricked by the Narcotics attack.

Several camping meeting agendas for state defense stated that Narcotics included proxy war threats. The Chief of Indonesian Army, General Gatot Nurmantyo, said that Narcotics misuse in Indonesia has correlation to "proxy war" strategy. This condition destroys Indonesian young generation, so in the future this nation does not have the high quality of generation [11] [12].

All facts about narcotics cases are very apprehensive and they can destroy young generation for long-term. Since they have attacked massively starting from the young executives until students. Through the international conspiracy, unconsciously Indonesian young generation can be destroyed without using any weapon. Even the government officers are still overwhelmed to prevent and overcome this problem.

As it is explained above, it can be concluded that the threats of narcotics attack are considered more dangerous than the actual weapon war. In consequence, there must be a policy from the President which is at least declared in Presidential Instruction and it involves Indonesian Army in order to prevent and eradicate the misuse and the illicit trafficking of Narcotics. It also supports the tasks mandated by Narcotics Law to BNN.

Furthermore, Indonesian National Police (POLRI) becomes one of state governance functions in case of keeping safety and discipline of community, conducting law enforcement, protecting, supervising, and providing service for society. Indonesian National Police is one of state's instruments whose duties are keeping safety and discipline of community, conducting law enforcement, protecting, supervising, and providing service for society in order to maintain domestic security.

In preventing and eliminating Narcotics abusers, Indonesian National Police has a very strategic position with its basic tasks and functions. Indonesian National Police needs to be more optimal in supporting the prevention and eradication of Narcotics. Their movement needs to be in line with National Narcotics Board as the main component who is appointed specially by the Law of Narcotics to prevent and eradicate Narcotics. Therefore, in its implementation on the field, there should not be overlapping between National Narcotics Board and Indonesian National Police. They should not involve their personal ego to show off which one is the best of all. National Narcotics Board, Indonesian Army and Indonesian National Police as main components have to work together under one command. In this case, the command is given by the President.

Previously it has been stated clearly in Presidential Instruction concerning to P4GN Policy and National Strategy that the coordinators to prevent and eradicate misuse and illicit trafficking of narcotics is National Narcotics Board. The validity period of the Presidential Instruction is only until 2015; thus, the President needs to have new strategy in preventing and eradicating Narcotics in Indonesia which involves Indonesian Army as a part of main components to defend the people in order to fight the misuse and illicit trafficking of Narcotics.

Fighting against Narcotics by only counting in National Narcotics Board and Indonesian Army is almost impossible to be done. Narcotics crime is considered as extraordinary crime; nonetheless, the writers believe that

the more appropriate term is super extraordinary crime. The core of the problem itself is from the people; hence, people have important roles in preventing and eradicating Narcotics.

Backup Components

Backup components are national resources that have been prepared to be implemented with mobilization in order to enlarge and strengthen the power and capabilities of the main components. Under the Law of State Defense, Backup Components are arranged under Article 8 which mentioned that Backup Components consist of citizens, natural resources, artificial resources also national infrastructure and facilities which have been prepared to be implemented with mobilization in order to enlarge and strengthen the main components. Every aspect of Backup Components needs to be active in preventing and eradicating the misuse and illicit trafficking of Narcotics since in long period of time; Narcotics become a big threat for Indonesian.

Every citizen has their own right and obligation to participate in state defense as a reflection of nationality which ensures the citizens' right to live equal, fair, safe, peaceful and prosperous. The role of people in *Sishanta* is as Backup Components. It is stated under the Law of State Defense Article 8:

- (1) Backup Components consist of citizens, natural resources, artificial resources also national infrastructure and facilities which have been prepared to be implemented with mobilization in order to enlarge and strengthen the main components.
- (2) Backup Components consist of citizens, natural resources, artificial resources also national infrastructure and facilities which directly or indirectly capable of enlarging the power and capabilities of main components and backup components.

The concept of *Sishanta*, as an answer to fight against the misuse and illicit trafficking of Narcotics, can be the new solution. Inside the concept, people will be given more influence or role as backup components for state defense. In this matter, people will be educated and empowered maximally to fight against Narcotics.

IV. CONCLUSION

The number of Narcotics addicts and abusers keeps increasing every day. The high demand of Narcotics creates a high number of illicit trafficking of narcotics as well. Narcotics are serious threat for Indonesia because it can destroy the nation if we are careless in facing the attack of Narcotics. The threat of Narcotics attack needs to be taken seriously for Indonesians. Every defense component (main component, backup component, and supporting component) has to integrate with each other to create a large power. Ego sectorial which used to happen

needs to be abandoned. Therefore, the strategy of *Sishanta* becomes the solution in the effort to fight against misuse and illicit trafficking of Narcotics in Indonesia. The strategy of universal defense will integrate all components that Indonesians have.

Sishanta can be implemented by issuing the new Presidential Instruction to replace Presidential Instruction Number 12 of 2011. In this case, the involvement of Indonesian Army in order to prevent and eradicate the misuse and illicit trafficking of Narcotics, and overcome Narcotics emergency, there needs to be regulation; thus, its legality is clear and strong. It should not only exist in Memorandum of Understanding between National Narcotics Board and Indonesian Army.

REFERENCES

- [1] G. Supramono, *Hukum Narkotika Indonesia*. Jakarta: Djambatan. 2004;
- [2] National Narcotics Board, *Press Relases Akhir Tahun 2016, Keja Nyata Perangi Narkotika*, Jakarta: BNN, December 22nd, 2016
- [3] United Nations Office on Drugs and Crime. 2010. World Drug Report 2014. In Closing Report of National Survey of Narcotics Misuse Development Year 2014
- [4] Y. Saefudin. "Urgency of The Integrated Assessment in Narcotics Crime (Study in Purbalingga Regency). *Jurnal Dinamika Hukum*. Vol 17 No. 1 January 2017. Purwokerto: Law Faculty of Universitas Jenderal Soedirman
- [5] A. Raharjo, *Berbagai Jenis Pidanaan Bagi Pelaku Tindak Pidana Narkotika*, paper, Delivered in National Seminar "Mewujudkan Indonesia Bebas Narkotika Melalui Pendidikan Kepramukaan", held by Racana Soedirman & PENAMAS, on May 24th, 2014.
- [6] National Narcotics Board, *Laporan Akhir Survei Nasional Perkembangan Penyalahgunaan Narkotika Tahun Anggaran 2014*
- [7] Y. Linggasari *Sistem Pertahanan Semesta Resmi Diberlakukan Jokowi*, CNN Indonesia
- [8] J. Thontowi, & P. Iskandar. *Hukum Internasional. Kontemporer*. Bandung: PT Refika Aditama, 2006.
- [9] B. Mauna, *Hukum Internasional: pengertian peranan dan fungsi dalam era dinamika global*. Edisi Ke-2. Bandung: Alumni. 2005
- [10] M. Kusumaatmadja, *Pengantar Hukum Internasional*. Jakarta: Bina Cipta. 1997
- [11] P. Mayaut, *Penyalahgunaan Narkotika Mempunyai Keterkaitan Erat dengan Proxy War*, Source: http://www.antaranews.com/berita/458085/kasad-penyalah_gunaan-Narkotika-miliki-keterkaitan-strategi-proxy-war
- [12] Y. Saefudin, *Implementasi Pemberian Bantuan Hukum Bagi Rakyat Miskin Di Jawa Tengah Berdasarkan Undang-Undang Nomor 16 Tahun 2011 Tentang Bantuan Hukum*. *Jurnal Idea Hukum* 1 (1), 2015.