

The Effectiveness of Imprisonment and Fine Penalties for Narcotics Criminal Acts in Medan

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ABSTRACT

The effectiveness of imprisonment in prison and fine penalties has the purpose of preventing, reducing and controlling criminal acts and restoring the balance of society, in addition to providing repairs, rehabilitating, and socializing to the perpetrators, especially in narcotics crime. Law No. 35 of 2009 on Narcotics is a criminal law policy in which regulates the actions and penal sanctions that can be imposed for the perpetrators. The number of narcotics criminal acts that perpetrators are punished does not significantly affect the decline in crime rates. Even worse, the prisoners who are undergoing imprisonment are still able to control the circulation of narcotics from prison. This study focuses on judicial review, to find the effectiveness of imprisonment and fines in narcotics crimes in Medan. The type of research is normative legal research in the order of judicial policy with a descriptive approach. The result found that the application of criminal sanctions with imprisonment and fine penalties for drug criminal act has not reached the goal of criminal prosecution, as evidenced by the lightness of court decisions and the existence of criminal disparities of judicial decisions against narcotics offenders.

Keywords: *imprisonment, fine penalties, narcotics criminal acts*

1. INTRODUCTION

The rampant circulation of narcotics has spread in every level of society. This is very contrary to the life of the nation and state in the future. In its development, narcotics cases increase from year to year. The modus operandi is also increasingly sophisticated in the circulation of narcotics. As a legal umbrella, Law No. 35 of 2009 on Narcotics is a legal policy governing the law and sanctions that can be imposed on the perpetrators. The number of narcotics crime cases where the perpetrators were given severe sentences, from imprisonment to being sentenced to death did not affect the decrease in crime rates. While what happens narcotics inmates who are serving prison sentences are still able to control the circulation of narcotics from prison. This condition is a concern for all people in efforts to tackle narcotics crime.

2. Problem

The issues explained in the introduction raised a concern to be discussed. The problem that the writer wants to discuss in this paper is, how is the effectiveness of imprisonment and fine penalties for narcotics criminal acts in Medan?

3. Method

The type of research used in this study is normative legal research in the judicial policy setting, namely

reviewing and analyzing the regulations related to narcotics crime. This research uses a descriptive-analytical approach by exposing various judge decisions in narcotic crime cases. The sources of data are secondary data. The data obtained through documentation studies from books, research journals, magazines, and internet sites to support this research.

The data analysis was carried out with qualitative and descriptive normative analysis methods. The qualitative normative method is based on the rules in legislative policy, while descriptive normative analysis described the application of rules in various narcotics cases at the Court level, which further analyzes the implementation of the judge's decision. The analyzed data was strengthened by data from the library such as books as well as regulations related to the problems in this research.

4. Discussion And Result

The problem of narcotics abuse is not only a problem that needs attention in Indonesia but also in the international world. Entering the 20th-century, international attention to the narcotics problem is increasing, for instance, one in the Single Convention on Narcotic 1961.[1]

Along with advances in technology and information, narcotics crime is increasingly developing not only in the local dimension but also in the international dimension which is carried out using a sophisticated modus operandi supported by a wide network of organizations, and many victims are targeted, especially the young generation.

Narcotic trafficking has penetrated national borders, entered Indonesia as a transit-state or even as a destination country for illegal narcotics trade (point of market-state).[2] It is said that the Province of North Sumatra has entered an alarming stage and now is in the emergency of drug usage.[3]

Disclosure data by the National Anti-Narcotics Agency (BNN) throughout North Sumatra Province shows an increase in narcotics cases every year. This can be seen in the table below:

Table 1. Narcotics case data by the National Anti-Narcotics Agency (BNN)[4]

Year	Cases	Crystalline Meth (gram)	Ecstasy	Marijuana	Suspect
2014	22	4879,72	11.610	341.238,02 gram	22
2015	35	1364,8	32.880	733.905,9 gram stock	35
2016	124	99.003,01	54.804	1.350,1 gram stock 5 Ha	123
2017	101	18.110,932	383.668	3232,62 gram	136

In addition to the narcotics case data above, the narcotics crime cases in Medan District Court in 2017 are the highest cases compared to other criminal cases. This can be seen in the table below:

Table 2: Data on narcotics crime cases in the 2017 Medan District Court

No	Month	Amount of cases
1	January	29
2	February	38
3	March	133
4	April	135
5	May	153
6	June	97
7	July	150
8	August	228
9	September	138
10	October	190
11	November	206
12	December	273
	Amount	1770

Source: SIPP (Case Tracking Information System) Medan District Court 2017

The data above shows that narcotics crime cases are experiencing an increase every month.

Law No. 35 of 2009 on Narcotics shows there are types of formulation of criminal sanctions (*strafsoort*) and the formulation of the length of criminal witnesses (*strafmaat*) regulated in Article 111 through Article 148. In this Act, there are four categorizations of acts against the law which are prohibited by the law and can be threatened with criminal sanctions, namely:

1. The first category, acts in the form of possessing, storing, controlling or providing narcotics and narcotics precursors (Article 111 and Article 112 for class I of narcotics, Article 117 for class II of narcotics and Article 122 for class III of narcotics and Article 129 letter (a));
2. The second category, acts in the form of producing, importing, exporting, or distributing narcotics and narcotics precursors (Article 113 for class I of narcotics, Article 118 for class II of narcotics, and Article 123 for class III of narcotics and Article 129 letter (b));
3. The third category, acts in the form of offering to sell, sell, buy, receive, become intermediaries in buying and selling, exchanging, or delivering narcotics and narcotics precursors (Article 114 and Article 116 for narcotics class I and Article 119 and Article 121 for class II of narcotics, Article 124 and Article 126 for class III of narcotics and Article 129 letter (c));
4. The fourth category, acts in the form of carrying, sending, transporting or transmitting narcotics and narcotics precursors (Article 115 for class I of narcotics, Article 120 for class II of narcotics and Article 125 for class III of narcotics and Article 129 letter (d)).

From the formulation of criminal sanctions in Law No. 35 of 2009 on Narcotics, it can be specified that criminal sanctions consist of:

- a. The main penalties are imprisonment, capital punishment, confinement, fines, additional crimes (revocation of business licenses/revocation of certain rights), and acts of eviction (for foreign nationals);
- b. The length of imprisonment varies: imprisonment of 1 year to 20 years and/or for life imprisonment, for imprisonment ranging from 6 months;
- c. The amount of criminal fines ranges from 60 million to 10 billion rupiahs for psychotropic crimes, and between 1 million rupiahs to 7 billion rupiahs for narcotics crime;
- d. Criminal sanctions are generally threatened cumulatively (especially imprisonment and fines).

Although the use of criminal law as a last resort in combating crime, criminal law itself has limitations. The fairness of the ability of criminal law in handling crime has been widely expressed by scholars, including: Rubin stated, that punishment (whatever its nature, whether intended to punish or to correct) has little or no influence on the problem of crime.[5]Schultz states that the ups and downs of crime in a country are not related to changes in the law or trends in court rulings, but rather to the workings or functioning of major cultural changes in people's life.

Criminal sanctions for criminal offenses are determined in Article 111 to Article 148. There are three types of criminal sanctions regulated in this law, such as:

1. Criminal sanctions for narcotics criminals,
2. Criminal sanctions for narcotics precursor offenders, and
3. Criminal sanctions imposed on the management or leadership, which obstructs, recidivist, money laundering, foreigners and others.

Criminal sanctions for narcotics offenders are divided into three groups, namely:

1. Criminal sanctions for committing narcotics crimes of class I (Article 111 to Article 116 and Article 127)
2. Criminal sanctions for class II of narcotics (Article 117 to Article 121 and Article 127)
3. Criminal sanctions for committing narcotics crime class III (Article 122 to Article 127 paragraph (1) letter c.

The synchronize of charge, demand, and decision in narcotics crime case in Medan District court in 2017 can be seen in the description below:

1. Case Number 993/Pid.Sus/2017/PN MDN. The charges are: First, Article 114 Paragraph (1) and second, Article 112 Paragraph (1). The demands are 5 years imprisonment, Fine penalty Rp.800.000.000,- subsidiary 3 months imprisonment. Decisions: the decided article is Article 112 Paragraph (1) which deciding 5 years imprisonment, fine penalty Rp.800.000.- subsidiary 3 months imprisonment.
 2. Case Number 906/Pid.Sus/2017/PN MDN. The charges are: First, Article 114 Paragraph (2) jo Article 132 Paragraph (1) and second, Article 111 Paragraph (2) jo Article 132 Paragraph (1). The demands are 18 years imprisonment, Fine penalty Rp.1.000.000.000,- subsidiary 6 months imprisonment. Decisions: the decided article is Article 111 Paragraph (2) jo Article 132 Paragraph (1) which deciding 12 years imprisonment, fine penalty Rp.1.000.000.- subsidiary 3 months imprisonment.
 3. Case Number 908/Pid.Sus/2017/PN MDN. The charges are: First, Article 114 Paragraph (1) jo Article 132 Paragraph (1) and second, Article 112 Paragraph (1) jo Article 132 Paragraph (1). The demands are 5 years imprisonment, Fine penalty Rp.800.000.000,- subsidiary 3 months imprisonment. Decisions: the decided article is Article 112 Paragraph (1) jo Article 132 Paragraph (1) which deciding 4 years imprisonment, fine penalty Rp.800.000.- subsidiary 1 month imprisonment.
 4. Case Number 2113/Pid.Sus/2017/PN Mdn. The charges are: First, Article 114 Paragraph (2) jo Article 132 Paragraph (1) and second, Article 112 Paragraph (1) jo Article 132 Paragraph (1). The demands are 13 years imprisonment, Fine penalty Rp.1.000.000.000,- subsidiary 6 months imprisonment. Decisions: the decided article is Article 112 Paragraph (1) jo Article 132 Paragraph (1) which deciding 8 years and 6 months imprisonment, fine penalty Rp.1.000.000.- subsidiary 2 months imprisonment.
 5. Case Number 1817/Pid.Sus/2017/PN MDN. The charges are: First, Article 112 Paragraph (2) jo Article 132 Paragraph (1). The demand is life imprisonment. Decisions: the decided article is Article 112 Paragraph (2) jo Article 132 Paragraph (1) which deciding 16 year imprisonment, fine penalty Rp.1.000.000.- subsidiary 6 months imprisonment.
 6. Case Number 1650/Pid.Sus/2017/ Pn Mdn. The charges are: First, Article 112 Paragraph (1) jo Article 132 Paragraph (1) and second, Article 127 Paragraph (1) letter (a) jo Article 55 Paragraph (1) Criminal Code. The demands are 3 years and 6 months imprisonment. Decisions: the decided article is Article 127 Paragraph (1) letter (a) jo Article 55 Paragraph (1) Criminal Code which deciding 1 year imprisonment.
- The synchronize of violated articles, criminal threats, demands and judge's decisions in narcotics crime case in Medan District Court can be seen in the description below:
1. Case Number 3560, violated articles is Article 111 Paragraph (1) criminal threats are 4 – 12 years imprisonment and fine penalty Rp.800.000.000,- - Rp.8.000.000.000.-, demands 5 years imprisonment, fine penalty Rp.800.000.000,- subsidiary 6 months imprisonment and judge's decisions are 4 years imprisonment fine penalty Rp.800.000.000,- subsidiary 2 months imprisonment.
 2. Case Number 3563, violated articles is Article 111 Paragraph (1) jo Article 132 paragraph (1) criminal threats are 4 – 12 years imprisonment and fine penalty Rp.800.000.000,- - Rp.8.000.000.000.-, demands 4 years and 6 months imprisonment, fine penalty Rp.800.000.000,- subsidiary 6 months imprisonment and judge's decisions are 4 years and 6 months imprisonment, fine penalty Rp.800.000.000,- subsidiary 6 months imprisonment.
 3. Case Number 1414, violated articles is Article 112 Paragraph (1) criminal threats are 4 – 12 years imprisonment and fine penalty Rp.800.000.000,- - Rp.8.000.000.000.-, demands 4 years and 6 months imprisonment, fine penalty Rp.800.000.000,- subsidiary 3 months imprisonment and judge's decisions are 4 years imprisonment fine penalty Rp.800.000.000,- subsidiary 1 month imprisonment.
 4. Case Number 1441, violated articles is Article 112 Paragraph (1) criminal threats are 4 – 12 years imprisonment and fine penalty Rp.800.000.000,- - Rp.8.000.000.000.-, demands 6 years imprisonment, fine penalty Rp.800.000.000,- subsidiary 3 months imprisonment and judge's decisions are 5 years imprisonment fine penalty Rp.1.000.000.000,- subsidiary 1 month imprisonment.
 5. Case Number 3085, violated articles is Article 112 Paragraph (1) jo Article 132 paragraph (1), criminal threats are 4 – 12 years imprisonment and fine penalty Rp.800.000.000,- - Rp.8.000.000.000.-, demands 6 years imprisonment fine penalty Rp.800.000.000,- subsidiary 6 months imprisonment and judge's

- decisions are 5 years imprisonment fine penalty Rp.800.000.000,- subsidiary 4 months imprisonment.
6. Case Number 1571, violated articles is Article 112 Paragraph (1) criminal threats are life imprisonment and fine penalty Rp.800.000.000,- - Rp.8.000.000.000.- (added one third), demands 6 years imprisonment fine penalty Rp.800.000.000,- subsidiary 3 months imprisonment and judge's decisions are 5 years imprisonment fine penalty Rp.800.000.000,- subsidiary 1 month imprisonment.
 7. Case Number 968, violated articles is Article 112 Paragraph (2) jo Article 132 paragraph (1) criminal threats are 4 – 12 years imprisonment and fine penalty Rp.800.000.000,- - Rp.8.000.000.000.-, demands 6 years imprisonment fine penalty Rp.800.000.000,- subsidiary 3 months imprisonment and judge's decisions are 5 years imprisonment fine penalty Rp.800.000.000,- subsidiary 2 months imprisonment.
 8. Case Number 2483, violated articles is Article 114 Paragraph (1), criminal threats are 4 – 12 years imprisonment and fine penalty Rp.800.000.000,- - Rp.8.000.000.000.-, demands 8 years imprisonment fine penalty Rp.1.000.000.000,- subsidiary 3 months imprisonment and judge's decisions are 5 years imprisonment fine penalty Rp.1.000.000.000,- subsidiary 1 month imprisonment.
 9. Case Number 1188, violated articles are Article 114 Paragraph (1) to Article 132, criminal threats are 5 – 20 years imprisonment and fine penalty Rp.1.000.000.000,- - Rp.10.000.000.000.-, demands 4 years imprisonment fine penalty Rp.800.000.000,- subsidiary 3 months imprisonment and judge's decisions are 4 years imprisonment fine penalty Rp.800.000.000,- subsidiary 1 month imprisonment.
 10. Case Number 3668, violated articles is Article 114 Paragraph (2) criminal threats are death penalty, life imprisonment, 6–20 years imprisonment, fine penalty Rp.1.000.000.000,- - Rp.10.000.000.000.- (added one third), demands 12 years imprisonment fine penalty Rp.1.000.000.000,- subsidiary 1 year imprisonment and judge's decisions are 10 years imprisonment fine penalty Rp.1.000.000.000,- subsidiary 6 months imprisonment.
 11. Case Number 960, violated articles is Article 122 Paragraph (1) criminal threats are 4 – 12 years imprisonment and fine penalty Rp.800.000.000,- - Rp.8.000.000.000.-, demands 5 years imprisonment fine penalty Rp.800.000.000,- subsidiary 4 months imprisonment and judge's decisions are 4 years and 10 months imprisonment fine penalty Rp.800.000.000,- subsidiary 4 months imprisonment.

From the data obtained, in general, the Article imposed on narcotics offenders is Article 111 paragraph (1), Article 112 paragraph (1), Article 112 paragraph (2) jo Article 132 paragraph (1), Article 114 paragraph (2), Article 122 paragraph (1), Article 127 paragraph (1), and Article 131 while other articles can be said to have never been charged and imposed by the Prosecutor or Judge. There are 37 (thirty seven) articles relating to criminal sanctions for the perpetrators. Whereas for the imposing of

the criminal fines for the case mentioned above the judge gave the criminal penalty of Rp.800.000.00.- (Eight hundred thousand rupiahs) up to Rp.1,500,000.00.- (one million and five hundred thousand rupiahs), with imprisonment of between 1 (one) month and 6 (six) months.

In various narcotics crime cases, the Judge prioritizes the imposition of imprisonment sanctions which raises another problem, namely the capacity of prisons which are currently overcapacity. In a number of Penitentiary Institutions in Indonesia, particularly the Tanjung Gusta Penitentiary in Medan, the number of those inmates is more likely to be a narcotics offender. Prison is full of causes that disrupt health conditions for prisoners and prison officials. In addition, the crowdedness of prisons also has the potential to create a high level of conflict inside the prisons.

In relation to the article violated and criminal threats contained in Law No. 35 of 2009 and prosecutors' demands against the perpetrators can be said to be appropriate, although in some cases the prosecutors' demands are still far below criminal threats, both for imprisonment and criminal penalties. Whereas for the sentences imposed, the Judge always sentenced imprisonment under the Prosecutor's demands. For criminal fines, judges impose penalties of the same amount as prosecutor demand, which differs only from substitutes for criminal fines with a relatively lighter period of time than prosecutors' demands.

Imposition of fines for offenders that can be replaced with imprisonment which is relatively shorter than the provisions is found in Article 148: "If the criminal penalties as stipulated in this Law cannot be paid by narcotics and Narcotics Precursor offenders, the offender is sentenced imprisonment no longer than 2 (two) years as a substitute for a criminal penalty that cannot be paid". In this case, no matter how high the fines imposed, if it can be replaced with a shorter prison sentence, the fines will not bring a deterrent effect.

Based on the interviews with several Judges who have served in the Medan District Court, they stated that imprisonment was on average high, but the high sentence imposed did not reduce the number of narcotics crimes. The high cases of narcotics crimes are not only find in the courts of big cities but also in district-level courts. Sanctions relating to crime is said to be effective if the sanction is able to prevent or reduce the occurrence of crime. The effective criteria can be seen from how far the frequency of the crime can be suppressed, both quantitatively and qualitatively. In this case, the effectiveness of imprisonment puts more emphasis on the aspect of general prevention of criminal sanctions, namely to what extent the crime can prevent others from committing criminal offenses. [6] If seen in table 2, the number of narcotic crimes each month in 2017 in the Medan District Court has increased.

The issue of imprisonment arises various criticisms which suggest that imprisonment is a type of criminal sanction that is less effective, this is related to the ratio of the average repetition or reconsideration (reconviction rate) for the person who first commits a crime is inversely proportional to the age of the offender. According to

Jackson, the reconviction rate becomes even higher after people are sentenced to prison rather than non-prison sentences.[7]

Furthermore, it is said that some countries have a crisis of confidence in the effectiveness of imprisonment, and there is a tendency to ignore the ability of prison institutions to support crime control or reduction. Viewed from the perspective of criminal politics that people do not get better but are even eviler after serving a prison sentence, prison is said to be a college of crime. Therefore, a criminal punishment that is criminal (punitive imprisonment) is not currently an effective deterrent for people who have served a sentence in prison.

5. CONCLUSION

The policy to deal with narcotics crimes by using prison law and fines is stipulated in Law No. 35 of 2009 on Narcotics. The result of the research shows that the application of prison and fine sanctions in narcotics crime cases in the Medan District Court has not been able to suppress the numbers; it has not been effective in overcoming acts of narcotics crimes. Therefore, we need a thought to realize other policies that are more rational, selective and qualitative in using imprisonment.

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