

Legal Review of Narcotics Abuse In Terms of Victimology

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Abstract

Drug abuse is a violation of the law that is a serious problem in society and requires handling from the authorities and the active role of the community. In the study of victimology, drug abusers can be considered victims because they experience physical, mental and social losses due to dependence. However, according to Indonesian positive law, drug abuse remains a criminal offense that must be prosecuted. This research is descriptive analytical with a normative approach and aims to provide solutions to existing problems. The data collection technique is done through literature study, by reviewing laws and regulations, journals, articles, and other relevant literature. Individuals who use drugs without medical supervision are referred to as abusers and are considered to have violated the law. When children are involved in drug abuse, they face juvenile criminal law, because their actions are against the applicable regulations. However, children should also be seen as victims who need rehabilitation, not just punishment. Therefore, the approach to child drug abusers should be balanced between law enforcement and victim protection, in line with the principles of victimology and child protection in Indonesia's legal system.

Keywords: *Abuse, Drugs, Victimology*

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Introduction

Humans who live dependent on one type of drug will make the state of the user will always try to get the drug which can arise an effort with all kinds of ways to get drugs even though the method is against the law. Drug use in the community is a form of unlawful conduct and has become a serious phenomenon that must be addressed and resolved by the authorities and by the community.

Victimology is a field of study that explores the birth of victims who experience physical, mental, or property damage, especially caused by criminal acts. Victimology comes from the Latin *victima*, which means victim, and *logos*, which means science. Terminology means a study of victims, their causes and consequences. Victimization is a human problem as a social reality. Victims can be born as a result of a crime, human rights violation or natural disaster. The consequences, especially from a crime, produce victims both directly and indirectly, whether the perpetrator and the victim consist of different individuals or have the character of the perpetrator of the crime and as a victim simultaneously, which is called Victimless Crime.

Transnational crime and organized crime have made Indonesia a drug emergency. The National Narcotics Agency (BNN) as the leading sector in the prevention and eradication of drug abuse and illicit trafficking plays an important role in realizing an Indonesian society free from drug abuse and illicit trafficking. One of the problems of drug trafficking is the circulation of drugs in all circles in society at the age of children, adolescents, and adults. The dangers of drug use are very impactful on people, society, and the state, because if there is massive drug use in the community, it will become a fragile nation. Drug abuse is often carried out by young people, especially teenagers whose souls are still unstable and easier to be influenced by bad things. Based on the above background, it can be concluded that the formulation of the problem in this study is How is the role of victimology in understanding the impact of narcotics crimes on victims, as well as the efforts of the authorities and society in tackling drug abuse in Indonesia?

Literature Review

The literature review is a conceptual foundation used to understand and support the study of drug abuse from a victimology perspective. Victimology comes from the Latin words *victima* (victim) and *logos* (science), which means the study of victims, including their causes, impacts and characteristics. In the context of drug abuse, victimology examines drug users not only as perpetrators of crimes, but also as victims, both physically, mentally, and socially.

According to Yulia Rena (2010), victimology aims to provide protection to victims of crime through an approach that is not solely repressive, but also rehabilitative. This is in line with the provisions in Law No. 35/2009 on Narcotics, which applies a double track system in the form of criminal punishment and rehabilitation measures.

The victimology approach is also important in understanding the phenomenon of self-victimizing victims, namely individuals who become victims because of their own actions, such as drug users. This is reinforced by Schaffer's opinion on victim typology, as well as J.E. Sahetapy who emphasizes the need to study victims in various aspects, including social and legal. Thus, this literature review confirms that victimology provides a more humane perspective in dealing with drug abuse, especially for children and adolescents who are vulnerable to becoming victims.

Methods

In a scientific study, to obtain facts or principles or evidence to solve a particular problem, a research method is needed or how the facts or principles or evidence are obtained. facts or principles or evidence are data, both written data and human behavior.

In this research, the author uses several research methods in order to obtain data to solve problems in the object of research. The author uses qualitative analysis to analyze data obtained from legal materials based on concepts, theories, laws and regulations, doctrines, legal principles, expert opinions, or researchers' own opinions. Data analysis is an explanation of how data processing works. Therefore, it can be information and materials used in research.

This research includes normative legal research, so the legal materials used are primary, secondary, and tertiary legal materials. The technique of collecting legal materials that will be used as a source in this research is a literature study, namely the collection of legal materials by reading laws and regulations, official documents, journals, articles from the internet, and other literature that is closely related to the issues discussed based on secondary legal materials.

Result and Discussion

Narcotics are drugs that can eliminate (especially) pain originating from the visceral region and can cause the effects of stupor (still conscious but still have to be bullied) and addiction. In Law Number 35 of 2009 Article 1 number 1 states that Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semisynthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which are divided into groups as attached to this Law. Based on Law No. 35/2009, BNN is authorized to investigate and prosecute criminal acts of narcotics and narcotics precursors.

The definition of narcotics is based on the provisions of Article 1 point (1) of Law Number 35 of 2009 concerning Narcotics, that what is meant by Narcotics is a substance or drug derived from plants or non-plants, both synthetic and semisynthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence. Narcotics, which is quite well known in Indonesia today, comes from the word Narcotics, the same meaning as the word narcosis which means to anesthetize. In ancient times in Indonesia it was known as madat.

The general elucidation in Law No. 35/2009 on Narcotics has a broader scope both in terms of norms, scope of material and aggravated criminal penalties. The broader scope is not only based on the factors above, but also due to the development of needs and the fact that the values and norms in the applicable provisions are no longer adequate as an effective means to prevent and eradicate the abuse and illicit trafficking of narcotics. One of the new materials contained in Law Number 35 of 2009 concerning Narcotics, is divided into 3 (three) groups, regarding how the intended classification of each of these groups, has been formulated in Article 6 paragraph (1) of the Narcotics Law. The division of narcotics consists of

1. Narcotics Group I

In this provision what is meant by narcotics group I is narcotics that can only be used for the purpose of developing science and not used in therapy, and has a very high potential to cause dependence.

2. Narcotics Group II

In this provision, what is meant by narcotics group II is narcotics with medicinal properties used as a last resort and can be used in therapy and / or for the purpose of scientific development and has a high potential to cause dependence.

3. Narcotics group III

In this provision what is meant by narcotics group III is narcotics with medicinal properties and is widely used in therapy and / or for the purpose of developing science and has a mild potential to cause dependence.

Narcotics offenses are special criminal offenses. As with special crimes, judges are allowed to impose two main punishments at the same time, generally a corporal punishment and a fine. Corporal punishment is in the form of death penalty, life imprisonment, or

imprisonment. The aim is that the punishment will incriminate the perpetrator so that the crime can be overcome in the community, because narcotics crimes are very dangerous to the interests of the nation and the State.

Narcotics crimes are regulated in Chapter XV Article 111 to Article 148 of Law Number 35 of 2009 concerning Narcotics which is a special provision, although it is not explicitly stated in the narcotics law that the criminal acts regulated therein are crimes, but it does not need to be sanctioned that all criminal acts in the law are crimes. The reason is that if narcotics are only for treatment and scientific purposes, then any act outside of these interests is already a crime considering the magnitude of the consequences of unauthorized use of narcotics is very dangerous for human life.

The development of science about crime victims or what is commonly called victimology comes from the thoughts of experts in criminology. Victimology from the beginning of this science until now does not run by itself, but there has been a development which is divided into 3 (three) stages of victimology development including the following:

1. In the early stages, victimology only studied victims of crime, at this stage it was termed "penal or special victimology".
2. In the second stage, victimology is not like the initial stage which only discusses the victims of crime. However, it develops, discussing victims as a result of accidents, at this second stage it is termed "general victimology".
3. In this last stage, the science of victimology has developed even more unlike what happened in the initial and second stages. At this stage, it discusses the problems that occur to victims due to abuse of power, including violations related to human rights. at this stage it is termed "new victimology".
4. Victims and perpetrators are one person, and all actions result in personal harm. The greater loss will be immediate in the long term compared to the pleasure that can only be enjoyed in a moment.

In victimology terms, it is referred to as self victimizing victims, which is someone who is victimized by their own crimes. Some sources refer to this as victimless crime. However, this view is the basis that there is no crime without a victim. Every crime has two elements, the criminal who commits the crime and the victim who is harmed. From a liability perspective, all responsibility lies with the perpetrator who is also the victim. Narcotics are substances or drugs both derived from plants and non-plants, both in synthetic and semisynthetic forms. It causes a decrease in consciousness, can reduce to eliminate the pain experienced by users and will definitely cause dependence.

Abuse in victimology is considered a victim because it bears material losses and addiction, while by legislation it is a criminal offense, said so because as a form of prevention of abuse. Individuals who use drugs or the like without the supervision and direction of a doctor are referred to as drug abusers. Children who stumble upon cases of abuse will be identified with criminal or public law on the grounds that drug abuse is something that is prohibited in Indonesian legislation. The Narcotics Law carries the humanist principle, which emphasizes the protection of victims of drug abuse, while providing severe punishment to dealers and networks of drug producers or dealers. The essence of this principle is the law's commitment to prioritize rehabilitation efforts for those proven to be victims of drug abuse.

Recognition of drug users, especially addicts as victims, has been embedded in various laws and regulations related to narcotics crimes in Indonesia. In Law No. 35/2009 on Narcotics, a double track system of punishment is applied, which allows the imposition of criminal sanctions and action sanctions simultaneously. The criminal sanctions applied can vary, ranging from the death penalty, imprisonment, confinement, to fines, depending on the gravity of the criminal offense committed. On the other hand, action sanctions offered in the form of

rehabilitation, indicate an effort to restore the social function of victims through a comprehensive recovery process.

This reflects a more compassionate approach and pays attention to the rehabilitation needs of drug users, who are recognized as victims in the dynamics of drug abuse, leading to individual recovery and, in turn, making a positive contribution to society as a whole. Focusing on criminal penalties related to a person's unlawful actions with the imposition of punishment to create a deterrent effect, while the punitive form of action focuses on correcting the wrongdoing of the perpetrator. Thus, there is a difference between the form of retribution found in criminal penalties and the form of punishment that provides guidance through punitive measures.

Through victimology, various aspects related to victims can be known, such as the factors that cause the emergence of abuse crimes, how a person can become a victim of abuse, and efforts to reduce the occurrence of victims of abuse crimes, as well as the rights and obligations of crime victims in the crime of Narcotics. Victimology of victims of crime in narcotics crimes, for example, victims found in children aged 7 years are already users, children at the age of 8 years are already using marijuana, and then at the age of 10 years children have used narcotics of various types such as marijuana, heroin, morphine, ecstasy, and so on. So that through victimology it is hoped that there will be no more neglect of the rights of victims, in this case victims of drug abuse. Stephen Schaffer divides the form or typology of victims based on the responsibility and status of the victim, namely:

1. Unrelated Victims, i.e. those who do not have any relationship with the criminal unless the criminal has committed a crime against them. According to Schaffer, all people have the potential to become victims. This means that no one is protected from becoming a victim regardless of whether the victim previously had a relationship with the perpetrator. In this case the full responsibility lies with the criminal.
2. Provocative Victims, which are those who do something to cause the offense or someone actively encourages themselves to become a victim. In this case the victim is the main perpetrator. Liability lies with both the victim and the perpetrator.
3. Precipitative Victims, namely someone who does not act but with his attitude encourages the perpetrator to do evil against him. For example, walking alone in a deserted dark place and stimulating criminals to rob and rape. The responsibility lies entirely with the perpetrator.
4. Biologically Weak Victims, i.e. those who have a weak physique that causes them to become victims. For example, young children, the elderly, women, and the disabled. In this case the responsibility lies with the community or local government, for not protecting the helpless victims.
5. Socially Weak Victims, people who are not considered by the wider society as members of that society. For example, immigrants, adherents of certain religions, and ethnic minorities who have a weak social standing. In these circumstances, full responsibility lies with the criminal or society.
6. Self-Victimizing Victims, those who are victimized by their own crimes. Some literature refers to this as victimless crime. But this view comes down to the idea that there are no victimless crimes. Every crime involves two things: the criminal and the victim. For example, drug addicts, homosexuals, alcoholics, and gambling. Liability lies solely with the perpetrator, who is also the victim.
7. Political Victims, those who suffer because of their political opponents. These victims are sociologically unaccountable.

Drug addicts in the study of victimology are categorized as self victimizing victims, namely someone who becomes a victim because of his own actions, because there are no direct victims in the crime. The first factor of victimization is individual factors, the second is

environmental factors and the last is other supporting factors. through the perspective of victimology According to J.E.Sahetapy, the definition of victimology is a science or discipline that discusses the problems of victims in all aspects. Not only crime and abuse of power, but also victims of accidents and natural disasters. studying crime from the victim's point of view is very necessary because this is inseparable from preventing the occurrence of a crime and how to overcome the perpetrators of crime from victims of conventional crimes as well as victims of non-conventional crimes.

1. A victimology perspective on drug abuse cases

Victimology is a branch of criminology that specifically discusses individuals or groups who are victims of crime. In the context of drug abuse, victimology plays an important role in positioning drug users not only as perpetrators of criminal acts, but also as victims of complex social and psychological dynamics. Drug abusers often fall victim to various factors such as environmental pressure, poor economic conditions, the influence of promiscuity, and lack of education about the dangers of addictive substances. Therefore, victimology encourages a more empathetic and rehabilitative approach towards users, especially by emphasizing the need for medical and social interventions as part of the victim's recovery process.

2. Drug Abusers in Legal Perspective and Social Reality

Based on the applicable legal provisions in Indonesia, particularly Law No. 35/2009 on Narcotics, drug abuse is categorized as a criminal act that can be subject to strict sanctions. However, normatively, the law also opens opportunities for abusers to receive rehabilitation if they are not traffickers. However, in practice, law enforcement against drug users is still dominated by a repressive approach, where users are more often criminally processed than directed to rehabilitation. This shows an imbalance between the spirit of the law that prioritizes recovery and the implementation that is still less than optimal. Therefore, victimology seeks to provide an understanding that drug users are more appropriately viewed as victims who need to be assisted, not merely punished.

3. Rehabilitation as a Form of Protection for Victims

Rehabilitation is one of the important instruments in handling victims of drug abuse. This approach is in line with the principles of victimology, which aims to restore the physical, mental and social conditions of victims so that they can resume their normal roles in society. This includes medical (to treat physical dependence), social (to restore social function), and psychological (to treat trauma and mental disorders) rehabilitation. However, access to rehabilitation services in Indonesia is still limited. Many victims of drug abuse do not receive adequate services due to limited facilities, lack of experts, and negative stigma from the community. Therefore, synergy between law enforcement officials and social agencies is needed to optimize rehabilitation as a form of protection and recovery for victims.

4. The Relevance of Victimology in Drug Law Policy Reform

Victimology makes an important contribution to the formulation of legal policies that are more humane and oriented towards restorative justice. This approach emphasizes the need for a clear distinction between abusers who are victims and drug offenders such as traffickers and dealers. Policy reform should be directed towards social recovery, protection of victims' human rights, and prevention of recurrence of abuse. This step can be realized through cross-sectoral cooperation between law enforcement officials, medical personnel, social institutions, and active support from the community. This victimology-based approach is also in line with international policies that prioritize harm reduction and non-discriminatory principles towards abusers. This shows that drug law reform in Indonesia needs to consider the victimological dimension to be more effective and just.

Conclusion

In the perspective of victimology, especially in the typology of victims, narcotics or drug abuse can be categorized as Self victimizing victim or crime without victim or False victim because there is no direct victim in the crime. It can be said that False Victim because a crime must have a perpetrator and a victim, of course, to determine how the party is responsible for his own actions.

Drug abuse is a serious issue that not only causes harm to the individuals directly involved but also has an impact on society at large. In the Indonesian legal context, drug abuse is strictly regulated through Law No. 35/2009 on Narcotics, which adopts a double track system approach, including criminal sanctions and action sanctions in the form of rehabilitation. The victimology approach highlights that victims of drug abuse are often entangled in situations where they are both victims and perpetrators, emphasizing the importance of comprehensive interventions to restore victims.

The government and relevant agencies need to improve access to rehabilitation facilities for victims of drug abuse, ensuring they receive adequate medical and social support. This includes expanding rehabilitation capacity and easing the administrative process to obtain it, and there should be closer cooperation between the government, health institutions, community organisations, and the private sector to support rehabilitation and social reintegration programmes for victims of drug abuse. People who use drugs should not only be seen as perpetrators of criminal acts, but also as individuals who are victims of various social, economic, and psychological pressures. Victimology provides a more holistic and empathetic perspective, emphasizing the importance of protection and recovery for drug abusers, particularly through a rehabilitative approach.

Although Law No. 35/2009 on Narcotics has provided a legal basis for the rehabilitation of drug users, implementation in the field still faces various obstacles. The repressive approach of the law, the limited rehabilitation facilities, and the stigmatization of drug users by society are major challenges in upholding justice based on victim protection. Therefore, the application of the victimology perspective in the legal system and drug policy in Indonesia is very relevant and important to be realized more consistently.

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